United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

74-1694

United States Court of Appeals
FOR THE SECOND CIRCUIT

TITAN GROUP, INC.,

Plaintiff-Appellant,

against

HAROLD FAGGEN,

Defendant-Appellee.

JOINT APPENDIX
Volume III, pages 1342 to 1751

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New York, N.Y. 10022.

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PLAINTIFF'S EXHIBIT 1--DIEBOLD MEMORANDUM

Adjustments

Plt. Pfd Return -			288494
Deduct Investment Income			31905
Adj Bal - Plt & Ct. Income Tax Bal			256589 14320 271409
Sierra Investment - (loan at 6/30/61)		25700	
Sierra Investment		58108	
Sierras Ct to 12/31/65 (Can be treated as loans)			
Rose		22950	
Fee		13162	
		119920	119920 391329

Plaintiff's Exhibit 1

Empl Fed Income Tax Ded 9/30/67			
Net Income		21597	
Deduct Fed Income Tax Withheld		2652	
Balance		18945	
Old Age Ins Ded - Fed Income Tax		2755	
		21700	21700
Dist Sls - Fed Inc Tax Ded 3/31/68			
Net Inc.		40045	
Deduct Fed Income Tax		10756	
Balance		29289	
Old Age Ins Ded - Fed Income Taxes		2814	
		33103	
Salaries		12000	
Pension		6348	51451
Fed Old Age Ins - Fed Inc Tax Ded 6/30/68			
Net Inc.		10416	
Fed Income Taxes withheld		3520	13936
Net Income - (See detailed sheet)			54129
			47370
			3520
Fed Income Taxes withheld			2500
			53876
Salaries that will not recur			3000
			50876

1344

Plaintiff's Exhibit 1

Form **1120**

U.S. Treasury Department
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 1967 or other taxable year beginning JULY 1, 1967, ending JUNE 30, 19 68

(PLEASE TYPE OR PRINT)

1967

Check if a—
A Sole proprietorship ☐ or partnership ☐ electing under section 1361 to be taxed as a corporation.
B Consolidated return. ☐
C Personal Holding Co. ☐

D Business Code No. (see instr.) 8098

[redacted]

E Employer identification number [redacted]

F Enter principal business activity NEW YORK

G Enter total assets from line 14, column (D), Schedule L (See instruction R) $ 877,[illegible].50

IMPORTANT—All applicable lines and schedules must be filled in. If the lines on the schedules are not sufficient, see instruction N.

GROSS INCOME

1	Gross receipts or gross sales ..... Less: Returns and allowances	918,814.54
2	Less: Cost of goods sold (Schedule A) and/or operations (attach schedule)	
3	Gross profit	918,814.54
4	Dividends (Schedule C)	12,639.04
5	Interest on obligations of the United States and U.S. instrumentalities	750.00
6	Other interest	3,797.91
7	Gross rents	
8	Gross royalties	
9	Net gains (losses)—(separate Schedule D)	14,718.60
10	Other income (attach schedule)	
11	TOTAL income—Add lines 3 through 10	950,725.09

DEDUCTIONS

12	Compensation of officers (Schedule E)	147,925.00
13	Salaries and wages (not deducted elsewhere)	279,935.54
14	Repairs (do not include capital expenditures)	
15	Bad debts (Schedule F if reserve method is used)	
16	Rents	
17	Taxes (attach schedule)	26,699.97
18	Interest	
19	Contributions (attach schedule—see instructions for limitation)	
20	Casualty or theft losses (attach schedule)	
21	Amortization (attach schedule)	
22	Depreciation (Schedule G)	6,872.11
23	Depletion (attach schedule)	
24	Advertising	
25	(a) Pension, profit-sharing, stock bonus, annuity plans (attach Form 2950)	58,108.00
	(b) Other employee benefit plans (see instructions) WELFARE	2,672.86
26	Other deductions (attach schedule)	140,017.37
27	TOTAL deductions on lines 12 through 26	662,230.96
28	Taxable income before net operating loss deduction and special deductions (line 11 less line 27)	288,494.13
29	Less: (a) Net operating loss deduction (see instructions—attach schedule)	
	(b) Special deductions (Schedule I) 10,743.18	10,743.18
30	Taxable income (line 28 less line 29)	277,750.95

TAX

31	TOTAL income tax (Schedule J)	128,648.85
32	Credits: (a) Tax deposited—Form 7004 application for extension (attach copy)	
	(b) 1967 estimated tax payments (include 1966 overpayment allowed as a credit)	
	(c) Credit from regulated investment companies (attach Form 2439)	
	(d) Credit for U.S. tax on nonhighway gas and lube oil (attach Form 4136)	
33	If tax (line 31) is larger than credits (line 32), the balance is TAX DUE. See instr. G for Tax Deposit System →	128,648.85
34	If tax (line 31) is less than credits (line 32) ..... Enter the OVERPAYMENT here →	
35	Enter amount of line 34 you want: Credited to 1968 estimated tax ..... Refunded	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

CORPORATE SEAL

Date ..... Signature of officer ..... Title .....

Date ..... Individual or firm signature of preparer ..... Address .....

[illegible]

1345

Plaintiff's Exhibit 1

Form 1120 (1967) Page 2

Schedule A—COST OF GOODS SOLD (See instruction 2)

1 Inventory at beginning of year	
2 Merchandise bought for manufacture or sale	
3 Salaries and wages	
4 Other costs (attach schedule)	
5 Total	
6 Less inventory at end of year	
7 Cost of goods sold—Enter on line 2, page 1	

Method of inventory valuation

Schedule C—DIVIDENDS (See instruction 4)

1 Domestic corporations subject to 85% deduction	12,637.04
2 Certain preferred stock of public utilities	
3 Foreign corporations subject to 85% deduction	
4 Dividends from wholly owned foreign subsidiaries subject to 100% deduction (section 245(b))	
5 Other dividends from foreign corporations	
6 Income from controlled foreign corporations (attach Form 3646)	
7 Foreign dividend gross-up (section 78)	
8 Qualifying dividends from affiliated groups (section 243(b))	
9 Other	
10 Total—Enter here and on line 4, page 1	12,637.04

Schedule E—COMPENSATION OF OFFICERS (See instruction 12)

1. Name, address, and social security number of officer	2. Title	3. Time devoted to business	4. Percent of corporation stock owned: Common	5. Preferred	6. Amount of compensation	7. Expense account allowances
HAROLD [redacted]	CHAIRMAN				75,700.00	
KOSB	PRES				45,900.00	
GEORGE	SEC TREAS				26,325.00	
Total compensation of officers—Enter here and on line 12, page 1					147,925.00	

Schedule F—BAD DEBTS—RESERVE METHOD (See instruction 15)

1. Year	2. Trade notes and accounts receivable outstanding at end of year	3. Sales on account	Amount added to reserve: 4. Current year's provision	5. Recoveries	6. Amount charged against reserve	7. Reserve for bad debts at end of year
1962						
1963						
1964						
1965						
1966						
1967						

Schedule G—DEPRECIATION (See instructions for Schedule G)

Taxpayers using Revenue Procedures 62-21 and 65-13. Make no entry in column 2, enter the cost or other basis of assets held at end of year in column 3, and enter the accumulated depreciation at end of year in column 4.

1. Group and guideline class or description of property	2. Date acquired	3. Cost or other basis	4. Depreciation allowed or allowable in prior years	5. Method of computing depreciation	6. Life or rate	7. Depreciation for this year
1 Total additional first-year depreciation (do not include in items below)						
Buildings						
Furniture and fixtures	VAR	10,737.81	6,975.05	VAR	10%	751.74
Transportation equipment	VAR	12,043.00	5,509.28	VAR	VAR	2967.00
Machinery and other equipment						
Other (specify)						
[illegible] MACHINES	VAR	22,02[illegible]	17,004.41	VAR	VAR	3122.01
AIR CONDITIONERS	VAR	5,008.50	4,367.96	VAR	VAR	30.31
LEASEHOLD IMPROVEMENTS	VAR	21,156.17	21,156.17			—
2 Totals		2[illegible]				6,872.11
3 Less amount of depreciation claimed in Schedule A and elsewhere on return						—
4 Balance—Enter here and on line 22, page 1						6,872.11

Schedule H—SUMMARY OF DEPRECIATION

	Straight line	Declining balance	Sum of the years-digits	Units of production	Additional first-year (section 179)	Other (specify)	Total
1 Under Rev. Procs. 62-21 and 65-13							
2 Other	2,784.88	4,087.23					6,872.11

630—[illegible]

Plaintiff's Exhibit 1

Schedule I—SPECIAL DEDUCTIONS

1 (a) 85 percent of line 1, Schedule C	10743.19
(b) 60.208 percent of line 2, Schedule C	
(c) 85 percent of line 3, Schedule C	
(d) 100 percent of line 4, Schedule C	
2 Total—Not to exceed 85 percent of (line 28, page 1, less the sum of lines 3 and 5 of this schedule). The 85-percent limitation does not apply to a year in which a net operating loss occurs	10743.19
3 100 percent of line 8, Schedule C	
4 Dividends paid on certain preferred stock of public utilities (see instructions in case of net operating loss)	
5 Western Hemisphere trade corporations (not allowable in year of net operating loss)	
6 Total special deductions—Add lines 2 through 5. Enter here and on line 29(b), page 1	10743.19

Schedule J—TAX COMPUTATION

1 Taxable income (line 30, page 1)	
2 Surtax exemption (line 1, $25,000, or amount apportioned under section 1561, whichever is lesser)	
3 Line 1 less line 2	
4 (a) 22 percent of line 1	
(b) 26 percent of line 3	
(c) If multiple surtax exemption is elected under section 1562, enter 6 percent of line 2	
5 Income tax (line 4, or line 26 of separate Schedule D, whichever is lesser)	130,497.08
6 Foreign tax credit (attach Form 1118)	
7 Line 5 less line 6	130,497.08
8 Investment credit (attach Form 3468)	2,312.23
9 Line 7 less line 8	128,184.85
10 Personal holding company tax (attach Schedule 1120 PH)	
11 Tax from recomputing prior year investment credit (attach computation)	
12 Total tax—Add lines 9, 10, and 11. Enter here and on line 31, page 1	128,184.85

H Date incorporated 5-21-56

I (1) Did the corporation at the end of the taxable year own directly or indirectly 50 percent or more of the voting stock of a domestic corporation? . . . . . Yes ☐ No ☐

(2) Did any corporation, individual, partnership, trust, or association, at the end of the taxable year own directly or indirectly 50 percent or more of the corporation's voting stock? . . . . . Yes ☐ No ☐
(For rules of attribution, see section 267(c).)

If the answer to (1) or (2) is "Yes," attach a schedule showing:

(a) name, address, and identifying number; and

(b) percentage owned.

If the answer to (1) above is "Yes," include the taxable income (or loss) from line 30, page 1, Form 1120 of such corporation for the taxable year ending with or within your taxable year.

J Did you have any contracts or subcontracts subject to the Renegotiation Act of 1951? . . . . . Yes ☐ No ☒
If "Yes," enter the aggregate gross dollar amount billed during the year . . . . . .

K Amount of taxable income (or loss) from line 30, page 1, Form 1120 for: 1964 [illegible] 1965 [illegible] 1966 [illegible]

L Did you claim a deduction for expenses connected with:

(1) A hunting lodge ☐, working ranch or farm ☐, fishing camp ☐, resort property ☐, pleasure boat or yacht ☐, or other similar facility ☐? (Other than where the operation of the facility was the principal business.) Yes ☐ No ☒

(2) The leasing, renting, or ownership of a hotel room or suite ☐, apartment ☐, or other dwelling ☐ which was used by customers or employees or members of their families? (Other than use by employees while in business travel status.) Yes ☐ No ☒

(3) The attendance of your employees' families at conventions or business meetings? Yes ☐ No ☒

(4) Vacations for employees or members of their families? (Other than amount reported on Form W-2.) Yes ☐ No ☒

M Refer to page 7 of instructions and state the:

Principal business activity ACTUARIAL CONSULTANT

Principal product or service

N Were you a member of a controlled group subject to the provisions of section 1561 Yes ☐ No ☒, or section 1562? Yes ☒ No ☐

If "Yes," check type of relationship:

(1) parent-subsidiary ☐

(2) brother-sister ☒

(3) combination of (1) and (2) ☐ (see section 1563)

O Were you liable for filing Forms 1096 and 1099 or 1087 for the calendar year 1967? . . . . . Yes ☒ No ☐

If "Yes," where were they filed? [illegible]

P Was there any substantial change in the manner of determining quantities, costs, or valuations between opening and closing inventory? . . . . . Yes No ☐

If "Yes," attach explanation.

Q Did you pay dividends during the taxable year which you considered to be partially or wholly nontaxable to shareholders? Yes ☐ No ☐ (See sections 301 and 316.) If this is a consolidated return, answer here for parent corporation and on Form 851, "Affiliations Schedule," for each subsidiary.

R Were you a U.S. shareholder of any controlled foreign corporation? Yes ☐ No ☒. (See sections 951 and 957.) If "Yes," attach Form 3646 for each such corporation.

Plaintiff's Exhibit 1

Form 1120 (1967) — Schedule L—BALANCE SHEETS — Page 4

ASSETS	Beginning of taxable year (A) Amount	Beginning of taxable year (B) Total	End of taxable year (C) Amount	End of taxable year (D) Total
1 Cash				
2 Trade notes and accounts receivable				
(a) Less allowance for bad debts				
3 Inventories				
4 Gov't obligations (a) U.S. and instrumentalities	4,[illegible]50		[illegible]	4,[illegible]
(b) State, subdivisions thereof, etc.	100,[illegible]	146,[illegible]		
5 Other current assets (attach schedule)		2[illegible]00		1,[illegible]
6 Loans to stockholders				
7 Mortgage and real estate loans				
8 Other investments (attach schedule)		418,[illegible]		[illegible]
9 Buildings and other fixed depreciable assets	81,[illegible]		[illegible]	
(a) Less accumulated depreciation	3[illegible]	24,[illegible]	[illegible]	207,[illegible]
10 Depletable assets				
(a) Less accumulated depletion				
11 Land (net of any amortization)				
12 Intangible assets (amortizable only)				
(a) Less accumulated amortization				
13 Other assets (attach schedule)				370.00
14 Total assets		[illegible]		97[illegible]
LIABILITIES AND CAPITAL				
15 Accounts payable				
16 Mtges., notes, bonds payable in less than 1 yr.				
17 Other current liabilities (attach schedule)		[illegible]7		18,[illegible]17
18 Loans from stockholders				
19 Mtges., notes, bonds payable in 1 yr. or more				
20 Other liabilities (attach schedule)				
21 Capital stock: (a) Preferred stock				
(b) Common stock	[illegible]	[illegible]	[illegible]	[illegible]
22 Paid in or capital surplus (attach reconciliation)				
23 Retained earnings—Appropriated (attach sch.)				
24 Retained earnings—Unappropriated		5[illegible]171.27		746,[illegible]33
25 Less cost of treasury stock		( )		( )
26 Total liabilities and capital		[illegible]		971,[illegible]50

Schedule M-1—RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1 Net income per books	[illegible]	7 Income recorded on books this year not included in this return (itemize)	
2 Federal income tax	23,[illegible]	(a) Tax-exempt interest $ 30[illegible]7	
3 Excess of capital losses over capital gains			[illegible]7
4 Taxable income not recorded on books this year (itemize)		8 Deductions in this tax return not charged against book income this year (itemize)	
5 Expenses recorded on books this year not deducted in this return (itemize)		(a) Depreciation $	
(a) Depreciation $		(b) Depletion $	
(b) Depletion $			
[illegible]		9 Total of lines 7 and 8	
6 Total of lines 1 through 5		10 Income (line 24, page 1)—line 6 less 9	[illegible]

Schedule M-2—ANALYSIS OF UNAPPROPRIATED RETAINED EARNINGS PER BOOKS (line 24, page 4)

1 Balance at beginning of year	[illegible]	5 Distributions: (a) Cash	
2 Net income per books	[illegible]	(b) Stock	
3 Other increases (itemize)		(c) Property	
		6 Other decreases (itemize)	
		7 Total of lines 5 and 6	
4 Total of lines 1, 2, and 3		8 Balance at end of year (line 4 less 7)	

[illegible]

Plaintiff's Exhibit 1

YEAR ENDED JUNE 30, 1968

TAXES		
PAYROLL TAXES	7773.81 / 1457.56	$ 10,495.37
NYC COMMERCIAL RENT + OCCUPANCY		1,202.28
N.Y.S. FRANCHISE		5,274.05
N.Y.C. CORPORATION		9,546.27
N.Y.S. SALES		182.00
		$ 26,699.97
OTHER DEDUCTIONS		
RENT + MAINTENANCE		$ 24,851.68
ELECTRICITY		2,799.51
PROMOTION		4,480.25
DUES + SUBSCRIPTIONS		262.50
TELEPHONE + TELEGRAPH		5,993.91
OFFICE MACHINES - RENTAL + MAINTENANCE		21,155.10
STATIONERY, PRINTING + POSTAGE		26,405.23
TRAVEL EXPENSE		10,413.91
ENTERTAINMENT EXPENSE	10,385.96 / 7477.33	18,388.84
AUTO EXPENSES		4,657.57
GIFTS + CHRISTMAS EXPENSE		5,266.41
PROFESSIONAL FEES		4,950.00
INSURANCE		5,518.43
STAFF LUNCHES, DINNERS + MEETINGS		4,675.97
MOVING OF MACHINES + SHIPPING CHARGES		543.57
RESEARCH EXPENSE		694.57
CONVENTION EXPENSES		1,055.77
EDUCATIONAL STUDIES		1,138.00
SUNDRY EXPENSES	(4.50) 2,796.01	2771.51
		$ 140,017.48
TAX COMPUTATION		
ALTERNATIVE TAX - SCHEDULED		$ 124,786.83
10% SURCHARGE	$ 12,478.68	
SURCHARGE APPORTIONED FOR PERIOD 1/1 - 4/30/68		
122/366 x 12,478.68		6,205.25
.4972677 59		
		$ 130,992.08

1349

Plaintiff's Exhibit 1

SCHEDULE D (Form 1120)
U.S. Treasury Department
Internal Revenue Service

Gains and Losses From Sales or Exchanges of Property

1967

[redacted]

PART I—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—Assets Held More Than 6 Months—Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale
1				

f. Depreciation allowed (or allowable) since acquisition		g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) — OR — (see instructions)	j. Other gain (h less i)
f-1. Prior to January 1, 1962 — OR — Prior to January 1, 1964	f-2. After December 31, 1961 — OR — After December 31, 1963				

2 Total ordinary gain. Enter here and on line 11 and identify as gain from Part I . . . .
3 Total other gain. Enter here and on line 4 and identify as gain from Part I . . . . . .

PART II—SALE OR EXCHANGE OF PROPERTY UNDER SECTION 1231

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
4 1960 CHEVROLET	8 22 60	12-20-67	55 00	2,100.00	2,800.00	(645.00)
5 Total (If gain, enter on line 9; if loss, enter on line 11. Identify as gain or loss from Part II.)						(645.00)

PART III—CAPITAL ASSETS

Short-Term Capital Gains and Losses—Assets Held Not More Than 6 Months

6						
7 Unused capital loss carryover (attach statement)						
8 Net short-term capital gain (or loss)						

Long-Term Capital Gains and Losses—Assets Held More Than 6 Months

9 200 MADISON FUND PD	10-66	5-68	[illegible]		14677.23	6589.06
INC WELDEN CORP P.D	6-63	4-67	2,442.59		2277.95	4968.64
INC WELDEN CORP	6-63	4-67	2,198.44		1,237.92	2735.80
CAPITAL GAIN DIVIDEND + TAX CONTINENTAL						1050.00
10 Net long-term capital gain (or loss)						15,443.60

PART IV—PROPERTY OTHER THAN CAPITAL ASSETS

11 LOSS FROM PART II						645.00
12 Net gain (or loss). Enter here and on line 15						(645.00)

[illegible]

1350

Plaintiff's Exhibit 1

FORM **3468**
U.S. Treasury Department
Internal Revenue Service

Computation of Investment Credit

TO BE ATTACHED TO YOUR TAX RETURN
For calendar year 1967 or other taxable year beginning July 1, 1967, ending June 30, 1968

1967

Name and address: HAROLD FAGEN ASSOCIATES INC
153 BROADWAY
NEW YORK, N.Y. 10002

1 Investment in new and used property including investment in suspension period property
NOTE: Include your share of investment in property by a partnership, estate, trust, small business corporation, or lessor.

Type of property	Line	(1) Life years	(2) Cost or basis	(3) Applicable percentage	(4) Investment (Column 2 x column 3)
NEW PROPERTY	(a)	4 or more but less than 6	99,785.00	33⅓	33,262.01
	(b)	6 or more but less than 8		66⅔	
	(c)	8 or more	212.00	100	212.00
USED PROPERTY (See instructions for dollar limitation)	(d)	4 or more but less than 6		33⅓	
	(e)	6 or more but less than 8		66⅔	
	(f)	8 or more		100	

2 Total investment—Add lines 1(a) through (f) 33,474.67

3 (a) Amount of investment on line 2 which is attributable to suspension period property . . . .

(b) Amount of exemption from suspension period property (cost of suspension period property in column 2, line 1, which is selected to be treated as qualified property—not to exceed $20,000 less any amount selected in prior year) . . . . . .

(c) Enter in column 2 below the amount of investment on line 3(b) according to life years:

(1) Life years	(2) Cost or basis	(3) Applicable percentage	(4) (Column 2 x column 3)
4 or more but less than 6		33⅓	
6 or more but less than 8		66⅔	
8 or more		100	

(d) Total of column 4 . . . . . .

4 Line 3(a) less line 3(d) . . . . . .

5 Total qualified investment—Line 2 less line 4 . . . . . 33,474.67

6 Tentative investment credit—7% of line 5 (3% for public utility property) 2,343.23

7 Carryback and carryover of unused credit(s) (attach computation) . . . . . .

8 TOTAL—Add lines 6 and 7 . . . . . 2,343.23

LIMITATION

9 (a) Individuals—Enter amount from line 12, page 1, Form 1040 . . . . . .

(b) Estates and trusts—Enter amount from line 25 or 26, page 1, Form 1041 . . . . . 130,992.08

(c) Corporations—Enter amount from line 7, Tax Computation Schedule, Form 1120 . . . . .

10 Individuals, estates and trusts: (a) Foreign tax credit . . . . . .

(b) Retirement income credit . . . . . .

11 Total—Add lines 10(a) and (b) . . . . . .

12 Line 9 less line 11 . . . . . 130,992.08

(Married persons filing separately, affiliated groups, estates and trusts, see instruction 13)

13 (a) Enter amount on line 12 or $25,000, whichever is lesser 25,000.00

(b) If line 12 exceeds $25,000, multiply the excess by the applicable percentage determined in accordance with instruction 13. . . . . 72,996.04

14 Total—Add lines 13(a) and (b) 97,996.04

15 Less 7% of line 4 (3% for public utility property) . . . . . —

16 Line 14 less line 15 . . . . . 97,996.04

17 Investment credit—Enter amount on line 8 or line 16, whichever is lesser 2,343.23

SCHEDULE A

If any part of your investment in 1 above was made by a partnership, estate, trust, small business corporation, or lessor complete the following:

Name (Partnership, estate, trust, etc.)	Address	Property: New	Property: Used	Property: Life years
INT. GRAPHICS MACH. CORP.	230 MADISON AVE. N.Y. N.Y.	$ 96,260.00	$	4-6

10-2[illegible]-1

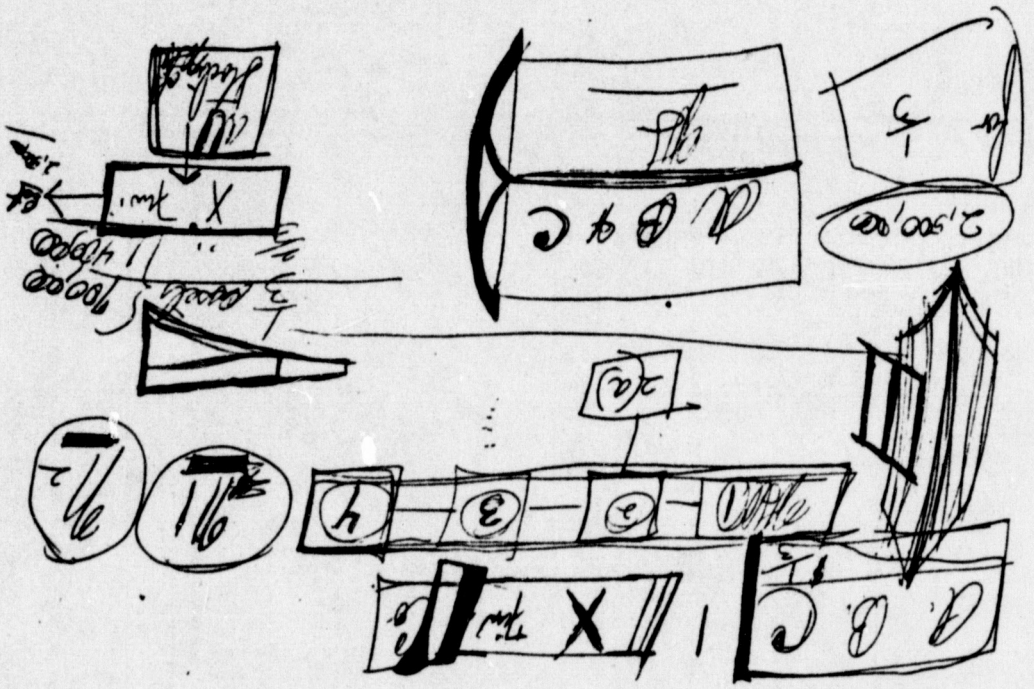
PLAINTIFF'S EXHIBIT 1A--COPY FROM DEFENDANT SHOWING NOTATIONS ON BACK

PLF's Ex 1 ID
7/30/73
F.W.P

Adjustments

Net Profit per Income Statement	Retained Earnings per Balance Sheet				288,494	
Add Est. Fed. & St. Income Taxes					3,905	
					256,589	
					14,820	
					271,409	
Excess Depreciation - (Loan at 6/30/				25,700		
Pension Assignment				58,108		
Advances to [illegible] (Can be [illegible] from [illegible]				23,950		
	Rose [illegible]			13,162		
				119,920	119,920	
					39,829	

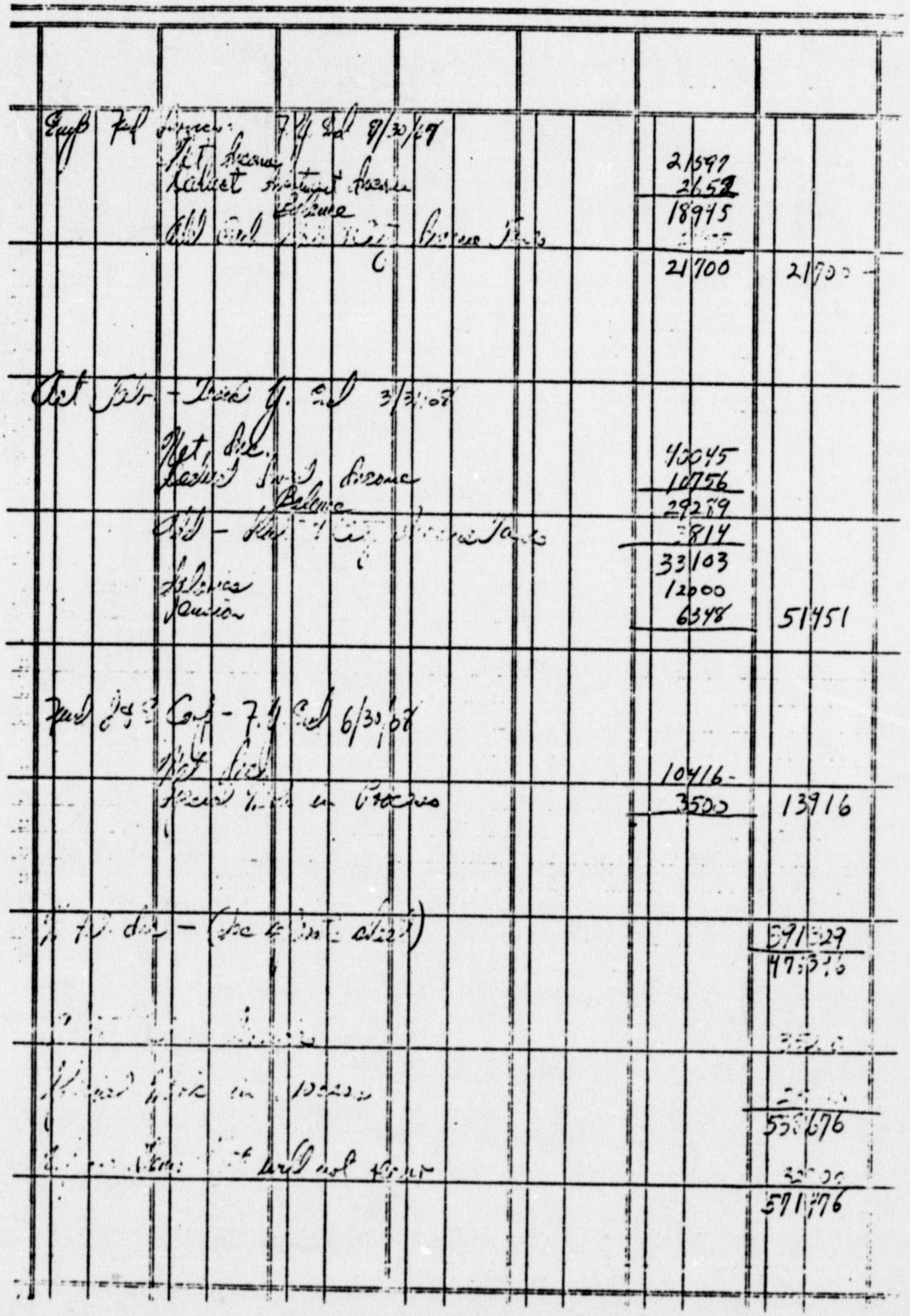
Plaintiff's Exhibit 1A



1. (A) contracts to buy ⅓ of Cap. Stock of W.F. interests for $2.5 mil

2. W.F. & Agrees to exchange bal. of stock in W.F. Enterprises for shares in X Corp.

PLAINTIFF'S EXHIBIT 1A



Plaintiff's Exhibit 1A

PLAINTIFF'S EXHIBIT 1B--TYPED COPY

ADJUSTMENTS TO INCOME

PER FAGGEN HANDWRITTEN NOTE

H. F. Assoc. - Per Tax Ret.		$288,494
Ded. 1) Invest. Inc.	31,905	-31,905
		256,589
Add 1) State & City Tax	14,820	
2) Salary adj. (Loan at 6/30/68)	25,700	
3) Pension Prepayment	58,108	
4) Salaries to 12/31/68 (can be treated as loans)		
Rose	22,950	
Geo.	13,162	134,740
		391,329
Emp. Fund Serv. - Tax Ret.	21,597	
Ded. Invest. Inc.	-2,652	
	18,945	
Add: State & City Tax	2,755	21,700
Act. Tab. - Per Tax Ret.	40,045	
Ded. Invest. Inc.	-10,756	
	29,289	
Add: State & City Tax	3,814	
Salaries	12,000	
Pension	6,348	51,451
Fund S & E Corp. - Per Tax Ret.	10,416	
Add: Spec. Work in Progress	3,500	13,916
		478,396
AccountingServices		35,280
Special Work in Process		25,000
Expense items that will not recur		32,800
		$571,476

PLAINTIFF'S EXHIBIT 2--COPY FROM FAGGEN'S FILES
SELLING MEMO

(CONFIDENTIAL)

Harold Faggen Associates, Inc., was organized in 1956 to take over the business started by Harold Faggen doing the latter part of 1946.

Harold Faggen Associates, Inc., and several related organizations function primarily as consulting actuaries to multi-employer pension funds, welfare funds, supplemental unemployment funds, etc.

As shown in Exhibit B, attached there are 143 clients, most of which have been clients continuously for more than ten years.

The staff consists of 33 persons and is being expanded as rapidly as competent experienced persons can be found. The stability of the staff is demonstrated by the fact that only seven employees have been on the staff for five years or less. Seven employees have been on the staff for ten years or longer.

Pltf. Exhibit No. 4 For Ident.
Date 1/13 Richard B. Groneman

Plaintiff's Exhibit 2

The Corporation occupies the ninth floor of a fire proof building at 853 Broadway. The floor contains approximately 6,000 net feet. It is expected that an additional 3,000 square feet on the eighth floor will be occupied within the near future. The space on the eighth floor is vacant and a lease is being negotiated.

Harold Fagen Associates, Inc., owns a number of pieces of IBM unit record equipment and leases an IBM 360 model 20 computer. The present system uses cards but two disc drives are on order and delivery is expected within the next few weeks.

Since we are in constant touch with many trade unions, we have undertaken the task of programming a completely automated union office. A very substantial client has already been obtained and we anticipate that fees from this client will be sufficient to pay all

Plaintiff's Exhibit 2

development costs.

Since we have both actuarial and computer capacity, we are in the process of programming completely automated pension plan calculations for small and medium size employers. We expect to provide these services to stock brokers, accountants and lawyers only the availability of packaged pension plan services at very reasonable prices will enable stock brokers to service these pension plans instead of leaving them for the insurance companies. It will also be possible for the thousands of accounting firms throughout the Country to service their clients with pension fund advice as the Ostheimer Division of Peat, Marwick, Mitchell services their clients.

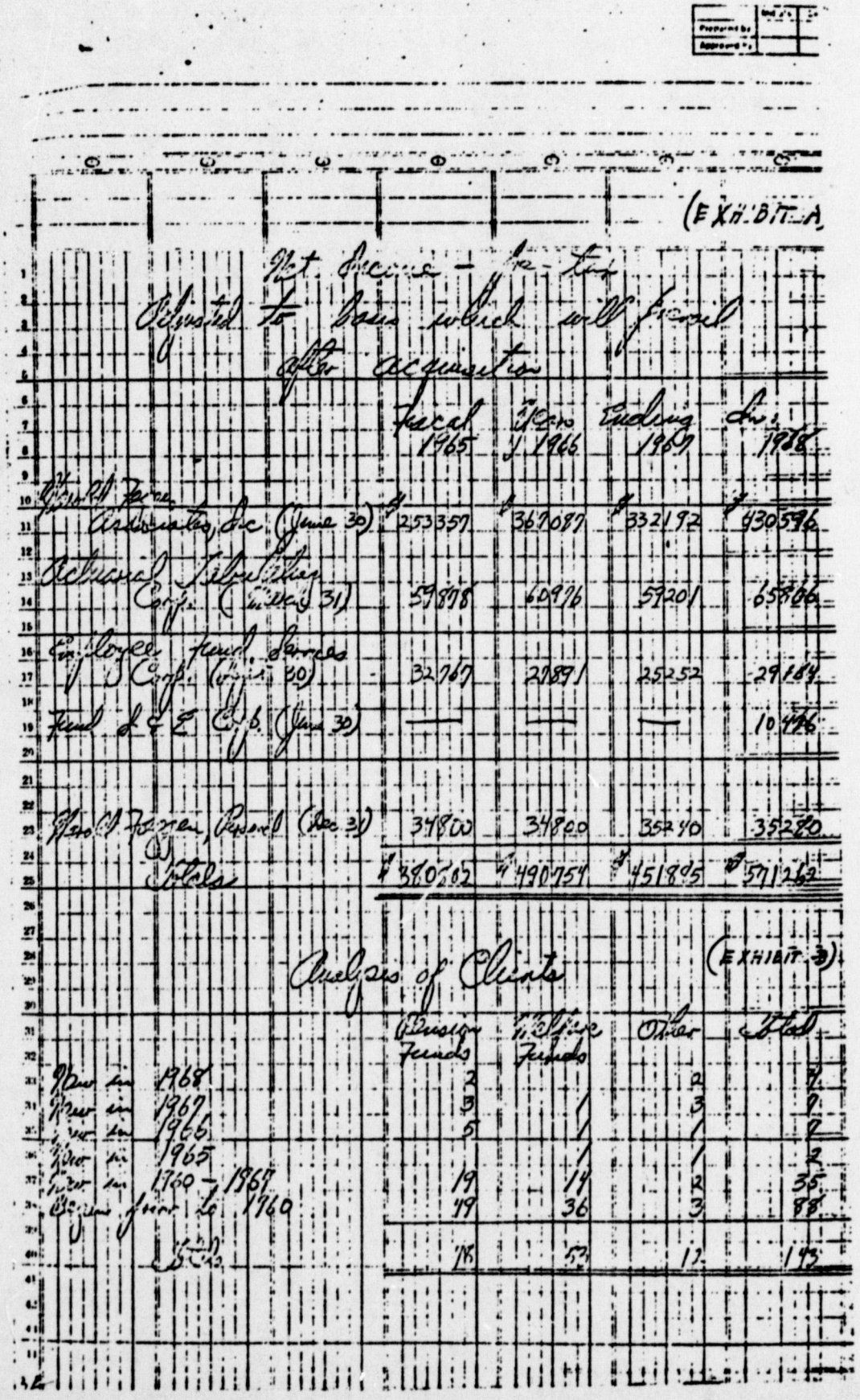
The profit potential inherent in our operation makes it possible for us to achieve any reasonable goal we set while, at the same time, absorbing the additional costs involved in developing new programmes. As shown in Exhibit A, attached, net profit before tax has been growing at a

Plaintiff's Exhibit 2

19

Compound rate of interest 15 percent a year.

Plaintiff's Exhibit 2



(EXHIBIT A)

Projected to Base which will Exist after Expenditure

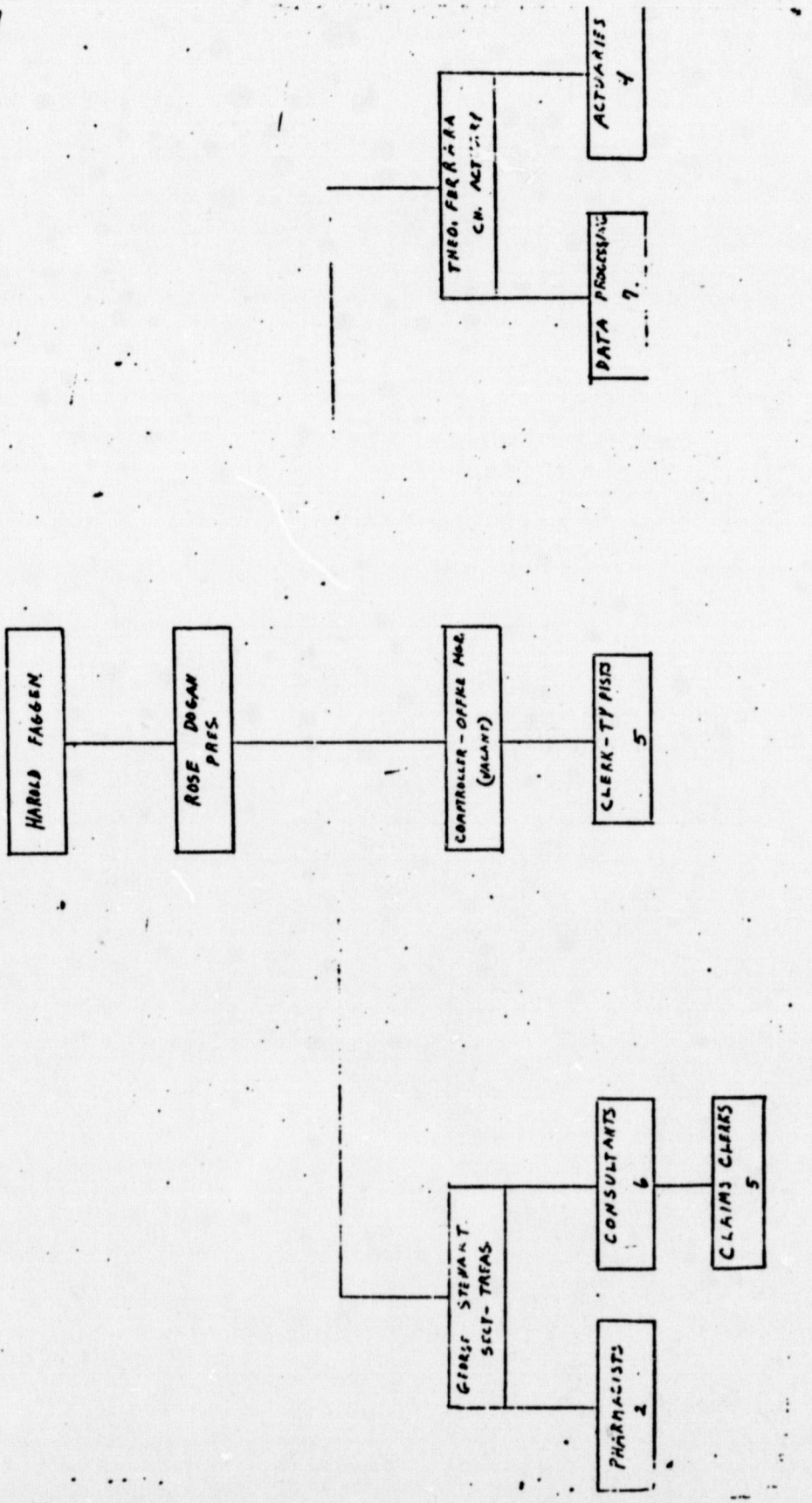
	Fiscal 1965	Fiscal 1966	Ending 1967	End 1988
Highway Fund Cash Balance, etc. (June 30)	$ 253357	$ 367087	$ 332192	$ 930596
Federal Aid Highway Fund Cash Balance (June 30)	59878	60976	59201	65866
Employees Retirement Cash Balance (June 30)	32767	27891	25252	29164
Rural Loop Fund Cash Balance (June 30)	—	—	—	10426
Highway Patrol Reserve (Dec 31)	34800	34800	35240	35280
Total	$ 380802	$ 490754	$ 451885	$ 571262

(EXHIBIT B)

Analysis of Claims

	Division Funds	Federal Funds	Other	Total
Years in 1968	2		2	4
Years in 1967	3	1	3	9
Years in 1966	5	1	1	9
Years in 1965		1	1	2
Years in 1960 - 1964	19	14	2	35
Claims from 1960	49	36	3	88
Total	78	53	12	143

Plaintiff's Exhibit 2



PLAINTIFF'S EXHIBIT 2A--INK COPY FROM ROBINSON'S FILES
SELLING MEMO

(CONFIDENTIAL)

Harold Fogg Associates, Inc., was organized in 1956 to take over the business started by Harold Fogg during the latter part of 1946.

Harold Fogg Associates, Inc., and several related organizations function primarily as consulting actuaries to multi-employer pension funds, welfare funds, supplemental unemployment funds, etc.

As shown in Exhibit B, attached there are 143 clients, most of which have been clients continuously for more than ten years.

The staff consists of 33 persons and is being expanded as rapidly as competent experienced persons can be found. The stability of the staff is demonstrated by the fact that only seven employees have been on the staff for five years or less. Sixteen employees have been on the staff for ten years or longer.

Robinson Ex. 2 For Ident
10/3 19[illegible] Richard B. Greenspon

WA

Plaintiff's Exhibit 2A

The Corporations occupy the ninth floor of a fire proof building at 853 Broadway. The floor contains approximately 6,000 net feet. It is expected that an additional 3,000 square feet on the eighth floor will be occupied with the near future. The space on the eighth floor is vacant and a lease is being negotiated.

Harold Fagen Associates, Inc., owns a number of pieces of IBM unit record equipment and leases an IBM 360 model 20 computer. The present system uses cards but two disc drives are on order and delivery is expected within the next few weeks.

Since we are in constant touch with many trade unions, we have undertaken the task of programming a completely automated union office. A very substantial client has already been obtained and we expect the fees from this client to be sufficient to pay all

JA

Plaintiff's Exhibit 2A

HAROLD FAGGEN ASSOCIATES, INC.

P.3

development costs.

Since we have both the actuarial and computer capacity, we are in the process of programming completely automated pension plan calculations for small and medium size employers. We expect to provide these services to stock brokers, accountants and lawyers only. The availability of packaged pension plan services at very reasonable prices will enable stock brokers to service these pension plans instead of leaving them for the insurance companies. It will also be possible for the thousands of accounting firms throughout the Country to service their clients with pension fund advice as the Ostheimer Division of Peat, Marwick, Mitchell services their clients.

The profit potential inherent in our operation makes it possible for us to achieve any reasonable goal we set while, at the same time, absorbing the additional costs involved in developing new programs. As shown in Exhibit A, attached, net profit before tax has been growing at a

Plaintiff's Exhibit 2A

P.4

compound rate of approximately 15 percent a year.

Plaintiff's Exhibit 2A

	Initials	Date
Prepared By		
Approved By		

(EXHIBIT A)

Net Income — Pre-tax

Adjusted to basis which will prevail after acquisition

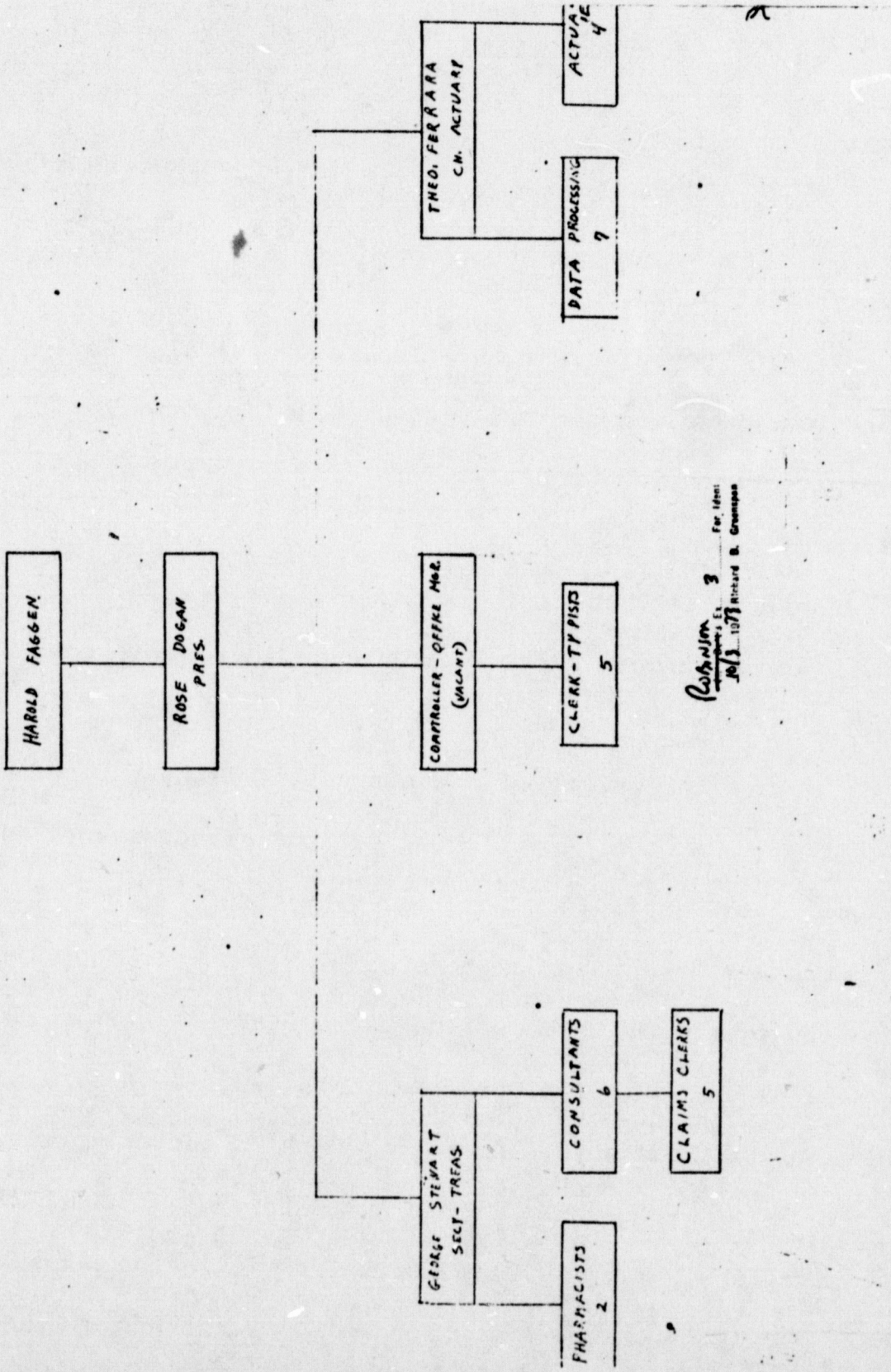
	Fiscal Year Ending 1965	1966	1967	1968
Harold F. Fogan Associates, Inc. (June 30)	$ 253357	$ 367087	$ 332192	$ 430596
Actuarial Investing Corp. (March 31)	59878	60976	59201	65806
Employee Fund Services Corp. (Dec. 30)	32767	27891	25252	29104
Fund L & L Corp. (June 30)	—	—	—	10476
Harold Fogan, Personal (Dec. 31)	34800	34800	35240	35280
Totals	$ 380802	$ 490754	$ 451885	$ 571262

(EXHIBIT B)

Analysis of Clients

	Pension Funds	Welfare Funds	Other	Total
Year in 1968	2		2	4
Year in 1967	3	1	3	7
Year in 1966	5	1	1	7
Year in 1965		1	1	2
Year in 1963 - 1964	19	14	2	35
Began year to 1960	49	36	3	88
Totals	78	53	12	143

PLAINTIFF'S EXHIBIT 2B--ORGANIZATION CHART



PLAINTIFF'S EXHIBIT 3--THE SELLING'S MEMO FROM TITAN'S FILES

(Confidential) To A. Frank
B Robinson

Harold Faggen Associates, Inc. was organized in 1956 to take over the business started by Harold Faggen during the latter part of 1946.

Harold Faggen Associates, Inc. and several related organizations function primarily as consulting actuaries to multi-employer pension funds, welfare funds, supplemental unemployment funds, etc.

As shown in Exhibit B, attached there are 143 clients, most of which have been clients continuously for more than ten years.

The staff consists of 33 persons and is being expended as rapidly as competent experienced persons can be found. The stability of the staff is demonstrated by the fact that only seven employees have been on the staff for five years or less. Sixteen employees have been on the staff for ten years or longer.

The Corporations occupy the ninth floor of a fire proof building at 853 Broadway. The floor contains approximately 6,000 net feet. It is expect that an additional 3,000 square feet on the eighth floor will be occupied within the near future. The space on the eighth floor is vacant and a lease is being negotiated.

Plaintiff's Exhibit 3

Harold Faggen Associates, Inc. owns a number of pieces of IBM unit record equipment and leases and IBM 360 Model 20 Computer. The present system uses cards but two disc drives are on order and delivery is expected within the next few weeks.

Since we are in constant touch with many trade unions, we have undertaken the task of programming a completely automated union office. A very substantial client has already been obtained and we expect the fees from this client to be sufficient to pay all development costs.

Since we have both actuarial and computer capacity, we are in the process of programming completely automated pension plan calculations for small and medium size employers. We expect to provide these services to stock brokers, accountants and lawyers only. The availability of packaged pension plan services at very reasonable prices will enable stock brokers to service the pension plans instead of leaving them for the insurance companies. It will also be possible for the thousands of accounting firms throughout the country to service their clients with pension fund advice as the Ostheimer Division of Peat, Marwick, Mitchell services their clients.

The profit potential interest in our operation makes it possible for us to achieve any reasonable goal we set,

while, at the same time, absorbing the additional costs involved in developing new programs. As shown in Exhibit A attached, net profit before tax has been growing at a compound rate of approximately 15 percent a year.

Plaintiff's Exhibit 3

(EXHIBIT A)

Net Income - Pre-Tax
Adjusted to basis which will
prevail after acquisition
(excludes investment income)

	Fiscal Years Ending In:			
	1965	1966	1967	1968
Harold Faggen Associates, Inc. (June 30)	$253,357	$367,087	$332,192	$430,596
Actuarial Tabulating Corp. (March 31)	59,878	60,976	59,201	65,806
Employee Fund Services Corp. (Sept. 30)	32,767	27,891	25,252	29,104
Fund S & E Corp. (June 30)	———	———	———	10,476
Harold Faggen, Personal (Dec. 31)	34,800	34,800	35,240	35,280
Totals	$380,802	$490,754	$451,885	$571,262

Plaintiff's Exhibit 3

(Exhibit B)

Analysis of Clients

	Pension Funds	Welfare Funds	Other	Total
New in 1968	2		2	4
New in 1967	3	1	3	7
New in 1966	5	1	1	7
New in 1965		1	1	2
New in 1960-1964	19	14	2	35
Began Prior to 1960	49	36	3	88
Totals	78	53	12	143

PLAINTIFF'S EXHIBIT 3A--PORTION OF SELLING MEMO FROM ROBINSON'S FILES

Rosen Ex 1-G for Id
10/1/73

(EXHIBIT A)

Net Income - Pre-Tax
Adjusted to basis which will prevail after acquisition

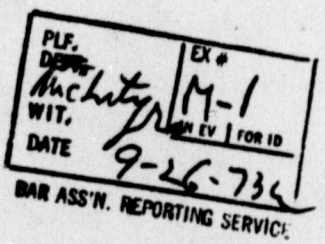
(without invest. income)

	Fiscal Years Ending In:			
	1965	1966	1967	1963
Harold Faggen Associates, Inc.(June 30)	$253,357	$367,087	$332,192	$430,596
Actuarial Tabulating Corp. (March 31)	59,878	60,976	59,201	65,806
Employee Fund Services Corp. (Sept. 30)	32,767	27,891	25,252	29,104
Fund S & E Corp. (June 30)	———	———	———	10,476
Harold Faggen, Personal (Dec. 31)	34,800	34,800	35,240	35,280
Totals	$380,802	$490,754	$451,885	$571,262

Profitable
Must have Farm
Expand

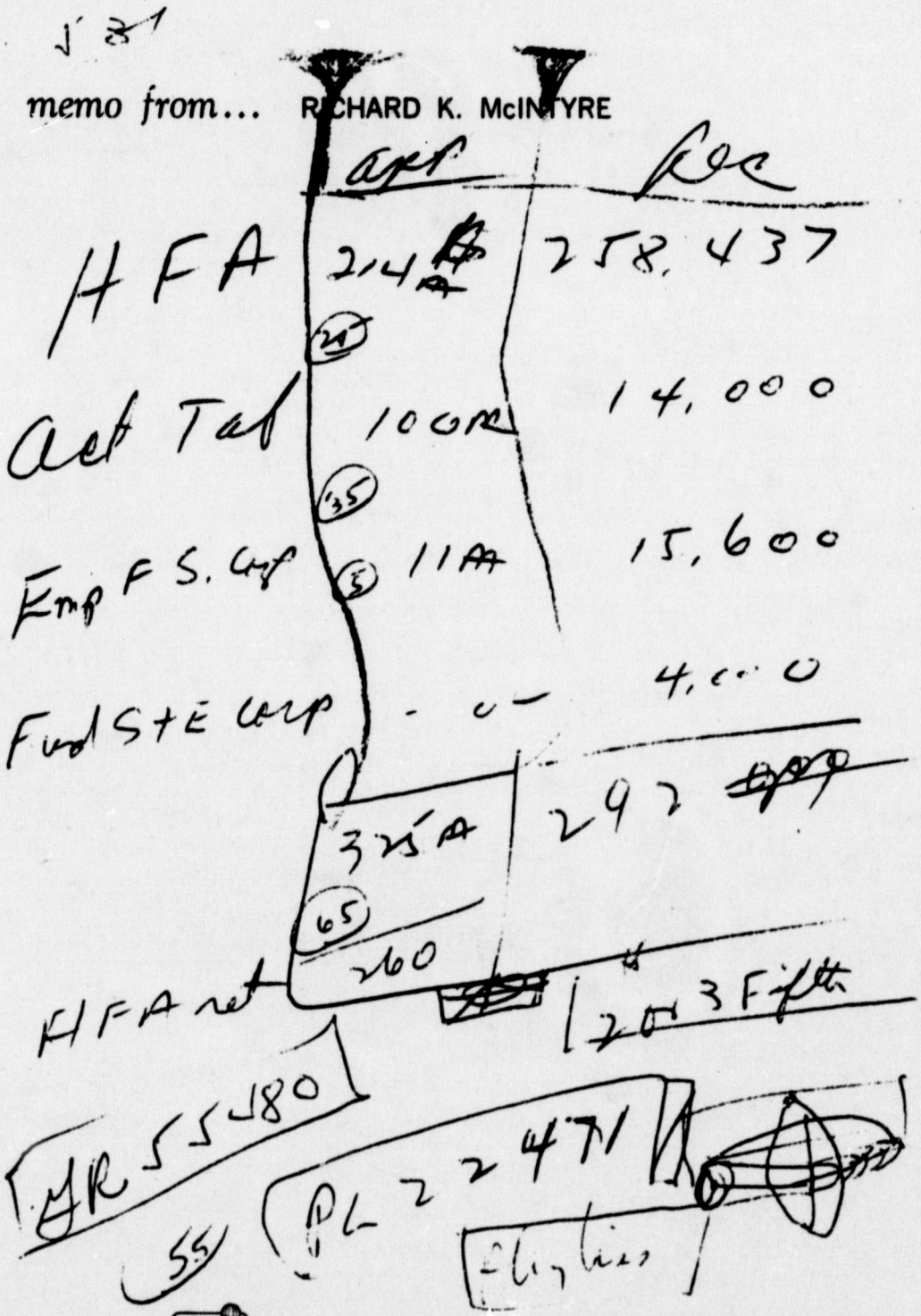
PLAINTIFF'S EXHIBIT 3B--NOTATIONS BY MC INTYRE ANNEXED TO PORTION OF SELLING MEMO FROM TITAN'S FILES

	Net Worth Inc Profits 9/30/68 (Qtr Alc Ready)	Less [illegible] Fed tax only Cost	Plus Investment Increment	Adj Net worth before State Franchise Tax
HFA	1070	160	215	1125.
ATC	294	44	100	370
EFSC	158	18	11	151
F St C	13	1	-0-	12
				1658



Plaintiff's Exhibit 3B

memo from... RICHARD K. McINTYRE



TITAN INDUSTRIES · INC·
529 FIFTH AVENUE · NEW YORK, N.Y. 10017
(212) MO 1-3232

1376

Plaintiff's Exhibit 3B

(EXHIBIT A)

Net Income - Pre-Tax
Adjusted to basis which will
prevail after acquisition (Withheld Income Income)

	Fiscal Years Ending In:			
	1965	1966	1967	1968
Harold Faggen Associates, Inc.(June 30)	$253,357	$367,087	$332,192	$430,596
Actuarial Tabulating Corp. (March 31)	59,878	60,976	59,201	65,806
Employee Fund Services Corp. (Sept. 30)	32,767	27,891	25,252	29,104
Fund S & E Corp. (June 30)	———	———	———	10,476
Harold Faggen, Personal (Dec. 31)	34,800	34,800	35,240	35,280
Totals	$380,802	$490,754	$451,885	$571,262

341 454 416 76

PLAINTIFF'S EXHIBIT 5--KAUFMAN'S NOTES

Titan - Fagger Assoc

Conf. w/ Al Anderson & Harold Fagger 9-6-68

Affiliates Harold Fagger Associates, Inc.
29 - 813 Broadway, N.Y. 10003

Consulting actuaries - for all kinds of pension plans except the "voluntary" area of plan
trusteed plans - funded, but generally not
by insurance - by & large, there are
Union Funds

offices. one CPA firm Alex org'd actuarial co.
(Alexander & Alexander was sold)

Harold, Lynch Assoc org'd an actuarial firm
Wortheim -
Lurie - Hammond org'd an Individual firm

offices. 30+ employees
incl. actuarial staff - 5
consulting staff - 8

Mr. Fagger is sole shareholder of all cos. - except
for trust & funding which are small cos.
of one co.

Person to be org'd - to expand at pinks of
Diggs co - or pres. person to pick
internal expansion.

Co. has no organizational chart to get often thereon -
often. - take just what comes in the door

Offices for Detroit & Lurie - Hammond Boston
for 10 this emp. + not with (10 this emp. tot)
on often. of - 7.5 million

Dept Exec
for RD
2/1/72 ver

Plaintiff's Exhibit 5

Annual federal auditing

ITU is biggest - aud. to run them $100,000 per yr.
2-4 others range from $50-70,000 per yr.

Audit performed by Foggin is at no less than
20 man days + N.W. —
w/ emphasis on inv. income

Conf: w/ Foggin & Frank 10-2-68

IRS is pretty current 6-30-67 (68 not yet
thru 66 completed, 64 & 65 due)

Have accum. earnings problem - so far justify -
relate to possible purchase of computer, etc. —

Ins schedule view for equit for

① More than one company (NY)
② Will liquidate - 364 D(3)
③ ~~5~~ 5½ Million at 4%
semi-ann.
Subord, conv.
10 yrs
10% payable in 5th yr.
Callable in 3 yrs /0-68
10% 10% —
limited anti-dilution
(See foreign language bonds)
Limited negative pledge — register
debentures for purpose
of allowing subsidiaries
to sell Underlying Stock
(b/c of short term equity)

54

PLAINTIFF'S EXHIBIT 6--MEMORANDUM FROM FRANK TO KAUFMAN

MEMORANDUM

October 7, 1968

TO: Edmund Kaufman

FROM: Anthony M. Frank

(1) Sam Bergman hurt his shoulder at the Airport today and may not be able to attend Titan's Board meeting on Wednesday.

(2) Ben spoke with Faggen. Faggen is agreeable if:

(a) We make available 25,000 shares for stock options to his eight to ten key employees.

(b) He would like $750,000 of his debentures convertible at 15, rather than 20. My calculations indicate this would increase the number of shares by 12,500 over the 275,000 we have been discussing.

I told Ben that I would go along with these two requests. We will try to obtain a letter from Harold to present to the Board meeting on Wednesday.

(3) I am enclosing a copy of a letter from Gene Colman just received. This letter raises a number of questions:

(a) What is the tax effect of Titan substituting for Colman as guarantor of bank loans?

(b) I had figured that the shares we were paying for his inventory would also serve as compensation for "a value for the operating company."

(c) The $14 down-side protection matter.

It is my personal opinion that these matters can be resolved, but certainly not in time to present to the Board this Wednesday (particularly when we have yet to arrive at an evaluation of the land holdings now held by Vermont Lumber Company).

I am off for Denver, and expect to speak to you tomorrow from New York.

AMF:jg
enc.

PLAINTIFF'S EXHIBIT 7--DRAFT OF PUBLICITY RELEASE

INTERIM REPORT

NINE MONTHS ENDED SEPTEMBER 30, 1968

To Our Shareholders:

We are pleased to present for your information the consolidated summary of operations (unaudited) for the three- and nine-month periods ended September 30, 1968, with comparative figures for the previous year.

After careful analysis your Board of Directors determined that the profitable sale of our shopping center division at this time would accomplish two important goals: first, it would provide the corporation with substantial cash reserves for future investments; and secondly, it would eliminate the need for considerable cash investments in order to upgrade these older properties to current shopping center standards. Title to these centers was conveyed to the buyer on October 15, 1968 for a total consideration of approximately $4,500,000 above existing mortgages.

Our shareholders were advised recently that preliminary agreement has been reached for the acquisition of an affiliated group of actuarial and computer companies. While not yet final, this agreement calls for the issuance of $5,500,000 of 4% convertible debentures, $4,750,000 of which may be converted at $20 per share and $750,000 at $15 per share at the option of the holder beginning

Plaintiff's Exhibit 7

~~in 19~~ . ~~Current earnings will add about 13 cents per share to our outstanding shares,~~ and future prospects for these privately-held companies are most encouraging. This acquisition, upon completion, will considerably strengthen our ability to provide financial services to business which, along with diversified real estate activities, constitutes our concept of the direction which the company will take in the years ahead.

Benjamin M. Robinson
Chairman of the Board

Anthony M. Frank
President

_____ (Date)

1382

PLAINTIFF'S EXHIBIT 8--FAGGEN'S PROJECTION

INCOME PROJECTIONS — ASSUMING THAT CURREAT BUSINESS WILL INCREASE 5% A YEAR AND THAT NEW BUSINESS WILL COME IN AT RATE OF 10% A YEAR WITH PRE-TAX PROFIT RATE OF 40% INSTEAD OF OUR USUAL 50%.

000 OMITTED

FISCAL YEARS ENDING IN	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
VALUE PRECEDING YEAR	1095.0	1150.0	1322.5	1509.4	1711.9	1931.5	2169.8	2428.4	2709.1	3014.1
INCREASE AT 5% PRE-TAX	55.0	57.5	66.4	75.4	85.5	96.9	108.4	121.4	135.4	150.7
INCREASE AT 10% PRE-TAX		115.0	120.5	134.1	153.1	168.4	185.2	203.9	224.1	246.5
TOTAL	1150.0	1322.5	1509.4	1711.9	1931.5	2169.8	2428.4	2709.1	3014.1	3345.6
PRE-TAX PROFIT PRECEDING YEAR		570.0	647.7	725.5	812.8	907.2	1007.5	1118.3	1238.3	1368.4
INCREASE AT 50% RATE		28.7	32.2	36.9	33.2	32.9	36.9	38.5	40.5	42.5
INCREASE AT 10% RATE		46.0	50.6	55.6	61.2	67.4	74.1	81.5	89.6	98.6
TOTAL PRE-TAX (OPERATIONS ONLY)	570.0	647.7	725.5	812.8	907.2	1007.5	1118.3	1238.3	1368.4	1514.5
INVESTMENT INCOME	130.0	145.0	162.0	170.0	200.0	225.0	250.0	280.0	310.0	345.0
TOTAL	700.0	792.7	885.5	982.8	1107.2	1232.5	1368.3	1518.3	1678.4	1859.5
NET AFTER TAX (45%)	315.0	356.3	398.4	442.8	498.2	554.6	615.3	683.2	755.3	836.8

Patricia Sa... 4
Pltf's Exhibit
10-7-[illegible]
For Identification

PLAINTIFF'S EXHIBIT 9--SCHEDULE OF SECURITIES ACQUIRED

Schedule of Marketable Securities Transferred
to Titan Group, Inc. from Faggen Corporations
by Dividend or Through Liquidation
On February 12, 1969

	No. of Shares or Face Value	Value on TGI's Books*	Cost to Faggen C
Bonds:			
Allied Stores - 4.5% 9/15/92	$ 10,000.00	$ 10,825.00	10,000.
So. Calif. Edison - 3 1/8% 8/15/80	50,000.00	42,500.00	51,375.
Wilson & Co., Inc. - 6½% 9/15/88	50,000.00	38,573.61	38,375.
Stocks:			
Allis Chalmers	333	9,990.00	9,988.
American Tel. & Tel.	400	21,150.00	26,932.
Argonaut Ins. Co.	1,000	34,500.00	17,568.
Ashland Oil & Ref.	322	14,932.75	5,312.
Baltimore Gas & Electric Com	1,041	34,353.00	35,977.
" " " Cv. Cum Pfd.	21	2,362.50	2,101.
Burroughs Adding Mach. Corp.	123	28,059.37	3,808.
Diamond Int'l. Corp.	200	9,025.00	7,274.
Financial Gen. Corp.	646	11,142.41	3,008.
Financial Security Corp.	646	8,237.59	2,224.
First Charter Financial Corp.	640	24,102.05	14,713.
Ford Motor Co.	100	5,700.00	5,050.
Gen. Acceptance Corp. 6.50 Cum. Pfd.	200	16,000.00	18,696.
Gen. Motors	300	24,900.00	23,046.
Gen. Tel. & Elec.	200	8,225.00	5,364.
Honeywell Inc.	100	12,750.00	7,332.
Household Fin.	440	19,910.00	8,988.
Inland Steel	900	32,850.00	35,308
Investors Fund Corp. of N. Y.	596	10,641.54	6,106
Katy Ind.	1,000	21,875.00	25,289
Lehman Corp.	2,897.135	71,239.89	46,420
McLean Trucking	900	47,587.50	31,815
Midwestern Financial Corp.	10,000	100,000.00	36,000
Minn. Mining & Mfg. Co.	100	10,325.00	7,690
National Steel Corp.	200	9,375.00	8,480
Pacific Northwest Bell	1,148	20,664.00	27,256
Penn Central	600	41,775.00	27,851
Perini Corp.	3,000	27,000.00	19,639
R.C.A.	200	9,925.00	9,459
Security Title & Guaranty Co.	1,000	7,250.00	9,049
Southern Railway	400	23,650.00	18,942
Standard Oil Co. of N. J.	400	31,100.00	28,092
Sterling Drugs	450	16,050.00	15,920
Tri-Cont. Corp.	2,424.738	80,594.50	66,146
Union Oil of Calif.	400	35,100.00	25,481
U. S. Steel	300	12,900.00	11,400
United Utilities	924	23,793.00	11,857
Beneficial Fin. Co. - Comm.	76	3,743.00	2,857
" " " - $4.30 Cum. Cv. Pfd.	57	4,503.00	3,791
Total		$ 1,019,179.71	771,99(

*Represents market value on September 30, 1968 effective acquisition date of Faggen Corporations by Titan Group, Inc. The above schedule does not include 8,000 shares of Titan Group stock transferred (cost $55,620.76)

PLAINTIFF'S EXHIBIT 10 FOR IDENTIFICATION

HAROLD FAGGEN ASSOCIATES, INC. AND COMPANIES

Net Income - Pre-Tax
Adjusted to Basis Which Prevailed
After Acquisition

	Fiscal Years Ending During			
	1965	1966	1967	1968
Cash basis income statements:				
Harold Faggen Associates, Inc. (June 30) Exhibit E-1	$105,033	$170,396	$109,215	$161,824
Actuarial Tabulating Corp. (March 31) Exhibit E-2	27,741	28,160	27,591	28,918
Employee Fund Services Corp. (September 30) Exhibit E-3	22,675	17,526	16,879	19,101
Fund S & E Corp. (June 30) Exhibit E-4				7,412
Total net income	155,449	216,082	153,685	217,255
Accrual adjustments to convert from cash to accrual method:				
Fees and retainers	(32,053)	(39,871)	20,655	(1,523)
Vacation pay	(1,000)	(2,000)	(3,000)	(4,000)
	(33,053)	(41,871)	17,655	(5,523)
Net income after taxes - accrual basis	122,396	174,211	171,340	211,732
Faggen's proposed pro forma adjustments:				
Add back federal, state, and city taxes	128,491	155,210	132,637	170,786
Accounting services income	34,800	34,800	35,240	35,280
Deduct investment income	(36,377)	(78,582)	(30,522)	(51,777)
Reduction in Harold Faggen's salary ($50,000 limit)	12,000	17,700	27,700	37,700
	138,914	129,128	165,055	191,989
Total adjusted net income - pre-tax per Titan audit	261,310	303,339	336,395	403,721
Total represented net income - pre-tax per Faggen	380,802	490,754	451,885	571,262
Overstatement	$119,492	$187,415	$115,490	$167,541

Plaintiff's Exhibit 10

HAROLD FAGGEN ASSOCIATES, INC.

Cash Basis Income Statements
Years Ended June 30

	1965	1966	1967	1968
Revenues:				
Fees and retainers	$705,260	$778,064	$842,490	$918,820
Dividends received	7,480	9,730	11,120	12,639
Interest income	5,382	4,076	7,960	7,599
Gain or (loss) on sale of:				
Equipment	(601)			(645
Investments	5,726	41,717		15,364
Total revenues	723,247	833,587	861,570	953,777
Costs and expenses:				
Salaries	319,841	356,254	419,843	427,861
Pension fund contributions	15,832	27,703	64,197	58,108
Employee benefits and union	39,665	1,908	22,369	2,673
Payroll taxes	8,589	9,744	11,198	10,495
Rent and maintenance	27,978	26,432	27,193	27,651
Office machines-rentals	21,452	13,208	8,620	21,155
Office supplies	10,952	12,071	18,925	26,405
Travel and entertainment	25,075	31,584	25,850	29,511
Insurance	4,419	5,856	6,079	5,758
Depreciation	5,627	10,614	9,937	6,872
Promotion	5,626	4,100	3,206	4,480
Telephone and telegraph	5,745	6,147	5,771	5,994
Professional fees	9,900	9,900	3,850	4,950
State and local corporate taxes	26,055	14,114	31,284	14,820
Other taxes	1,152	2,215	1,042	1,384
Miscellaneous	10,107	11,955	13,823	15,355
Total costs and expenses	536,015	543,805	673,187	663,472
Profit before federal income taxes	187,232	289,782	188,383	290,305
Federal income taxes	82,199	119,386	79,168	128,481
Net income	$105,033	$170,396	$109,215	$161,824

Plaintiff's Exhibit 10

ACTUARIAL TABULATING CORPORATION

Cash Basis Income Statements
Years Ended March 31

	1965	1966	1967	1968
Revenues:				
Fees and retainers	$ 71,492	$ 64,755	$ 74,030	$ 80,090
Dividends received	3,067	3,143	4,019	4,941
Interest income	1,233	2,240	1,189	1,125
Gain (loss) on sale of investments	6,596	12,179	2,606	4,690
Total revenues	82,388	82,317	81,844	90,846
Costs and expenses:				
Salaries	27,048	27,747	29,222	37,026
Pension fund contributions	5,473	5,473	5,473	6,348
Employee benefits and union	1,190	1,337	1,589	1,861
Payroll taxes	694	951	1,044	896
Rent and maintenance	2,400			
Office supplies			26	143
Insurance	99	594	110	158
Professional fees	3,000	2,700	2,950	450
State and local corporate taxes	3,761	5,829	2,190	3,814
Other taxes	2	2	2	2
Miscellaneous	128	99	100	103
Total costs and expenses	43,795	44,732	42,706	50,801
Profit before federal income taxes	38,593	37,585	39,138	40,045
Federal income taxes	10,852	9,425	11,547	11,127
Net income	$ 27,741	$ 28,160	$ 27,591	$ 28,918

EXHIBIT E-2

Plaintiff's Exhibit 10

EMPLOYEE FUND SERVICES CORPORATION

Cash Basis Income Statements
Years Ended September 30

	1965	1966	1967	1968
Revenues:				
Fees and retainers	$ 26,000	$ 22,507	$ 22,656	$ 24,123
Dividends received	1,352	1,268	1,474	2,800
Interest income	1,189	725	2,017	750
Gain (loss) on sale of investments	4,352	3,504	136	1,810
Total revenues	32,893	28,004	26,283	29,483
Costs and expenses:				
Professional fees	900	900	900	900
State and local corporate taxes	857	2,966	2,755	2,621
Other taxes	86	95	2	2
Miscellaneous	40	17	55	
Total costs and expenses	1,883	3,978	3,712	3,523
Profit before federal income taxes	31,010	24,026	22,571	25,960
Federal income taxes	8,335	6,500	5,692	6,859
Net income	$ 22,675	$ 17,526	$ 16,879	$ 19,101

EXHIBIT E-3

Plaintiff's Exhibit 10

FUND S & E CORPORATION

Cash Basis Income Statements
Years Ended June 30, 1968

	1965	1966	1967	1968
Revenues:				
Fees and retainers				$ 10,499
Dividends received				60
Total revenues		NONE		10,559
Professional fees expense				83
Profit before federal income taxes				10,476
Federal income taxes				3,064
Net income				$ 7,412

EXHIBIT E-4

PLAINTIFF'S EXHIBIT 11--INCOME FROM 1965 THROUGH 1972

HAROLD FAGGEN ASSOCIATES, INC.

AND AFFILIATED COMPANIES

YEAR	REPRESENTED NET INCOME	ACTUAL INCOME (APPROXIMATE)	OVERSTATEMENT (APPROXIMATE)	PERCENTAGE OVERSTATEMENT
1965	$380,802	$ 261,000	$ 121,000	46%
1966	490,754	303,000	187,000	62%
1967	451,885	336,000	116,000	35%
1968	571,262	404,000	167,000	41%

(Above schedule included in Hatcher affidavit)

1969	656,951*	260,000	396,951	153%
1970	755,494*	192,000	563,494	293%
1971	868,818*	136,000	732,818	539%
1972	999,141*	(125,000)	1,124,141	-

* At represented 15% growth rate

PLAINTIFF'S EXHIBIT 12

Harold Faggen Associates, Inc. & Affiliated Companies
Summary of
Cash and Securities Transferred to and from Titan
October 1, 1968 through January 26, 1973

Cash		933,072
Securities:		
Corporate securities--at market		1,019,180
TGI--8,000 shares @ market of 14¼	114,000	
Less: writedown of 50% as "investment stock"	57,000	57,000
Total cash and securities transferred to TGI		2,009,252
Payments by TGI to the Faggens or for their account:		
Salary:		
Harold Faggen	213,250	
Rose Dogan	240,692	
Interest	660,000	
Expense Paid (Per Schedule)	11,968	
Medical Payments	21,949	
Auto Expense	16,400	1,164,259
Net cash and securities received by TGI		$ 844,993

HAROLD FAGGEN ASSOCIATES, INC. & AFFILIATED COMPANIES

SCHEDULE OF PAYMENTS MADE TO HAROLD FAGGEN & ROSE DOGAN

(OR FOR THEIR ACCOUNT) FROM DATE OF ACQUISITION THROUGH JANUARY 26, 1973

	QUARTER ENDED 12/31/68	1969	1970	1971	1972	1973	Total
INTEREST PAYMENTS		$220,000.00	$220,000.00	$220,000.00	-	-	$ 660,000.00
SALARIES							
Harold Faggen	$13,940.00	50,000.03	50,000.04	45,833.37	53,476.65	-	213,250.09
Rose Dogan	9,280.00	50,000.00	54,999.97	55,000.00	71,412.50 (A)	-	240,692.47
EXPENSES PAID							
Harold Faggen	598.63	2,535.21	1,454.18	2,571.29	3,140.48	-	10,299.79
Rose Dogan	-	360.39	314.47	442.12	437.38	114.00	1,668.36
MEDICAL PAYMENTS							
Harold Faggen & Rose Dogan	804.90	4,190.16	5,403.04	4,315.17	9,346.46	-	25,059.73
Less amt. included in expenses paid						(3,110.87) (B)	(3,110.87)
AUTO EXPENSES		4,100.00	4,100.00	4,100.00	4,100.00	-	16,400.00
	$24,623.53	$331,185.79	$337,271.70	$332,261.95	$141,913.47	$ (2,996.87)	$1,164,259.57

(A) Includes accrued vacation pay of $3,412.50.

(B) Not identifiable by years; used only in 1973 in order that schedule cross-foots.

PLAINTIFF'S EXHIBIT 13

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PLAINTIFF'S EXHIBIT 15

Harold Faggen Associates, Inc.
Schedule of Compensation
Paid (Taken From Pension Records
Maintained by Rose Dogan and
Supervised by Trustee - Harold Faggen)

	Harold Faggen	Rose Dogan
1972	$53,476.65	$71,412.50 (1)
1971	45,833.37	55,000.00
1970	50,000.04	55,000.00
1969	50,000.03	50,000.00
1968	(2) 69,699.98 (3) (+10,000)	(2) 46,399.99
1967	75,700.00 (3) (+12,000)	45,900.00 (3) (+3,600)
1966	67,700.00 (3) (+10,000)	41,900.00
1965	52,500.00 (3) (+10,000)	31,700.00

(1) Includes $3,412.50 accrued vacation pay, and $5,000.00 applicable to 1971. Rate for 1972 was $63,000.00.

(2) Includes payment of 15 months salary.

(3) Amount paid by Actuarial Tabulating not included in Pension Fund Compensation.

PLAINTIFF'S EXHIBIT 16--PENSION ESTIMATES FOR ONE RETIREMENT PLAN

HAROLD FAGGEN ASSOCIATES, INC.

853 BROADWAY
NEW YORK, N. Y. 10003
477-5106

BY HAND

August 7, 1972

Mr. William Sosa
Corporate Audit Manager
Titan Group, Inc.
222 Executive Park
Louisville, Kentucky 40207

Dear Mr. Sosa:

As you requested, we have reviewed the contribution to the Harold Faggen Associates Employees Retirement Plan for the year 1968. The contribution, as calculated based on the actuarial assumptions and methods used, is correct as stated - $58,108. If the actuarial method and the interest assumption were changed, the reasonable cost which can be expected to occur on an annual basis would range from $15,000 to $30,000 per year based on the census in effect as of December 31, 1968.

To determine more precisely what a reasonable annual cost was at that time, involves reconstructing the census and performing the calculation, and this could not be done in under two weeks.

If you wish further information in this matter, please let me know.

Sincerely,

Basil Castrovinci
President

BC:jr

OPEIU 153, AFL-CIO

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PLAINTIFF'S EXHIBIT 17

HAROLD FAGGEN ASSOCIATES EMPLOYEES' RETIREMENT PLAN

PENSION RECORD

Name Rose Dogan Social Security No. 078-18-0965

Address 735 Linden Blvd. Bklyn., N.Y.

Date of Birth Jan. 23, 1925 Sex F Pension % 1

Date of Employment April 18, 1955 Date of Membership Jan. 1, 1957

Date of Termination _____ Reason for Termination _____

Attained Age	Calendar Year	Compensation	Estimated Retirement Benefit	Yearly Contribution	Total Contribution Plus Interest	
32	1957	5460	1802	489	501	
33	1958	6760	2218	607	1136	
34	1959	8580	2782	774	1958	
35	1960	11950	3793	1088	3122	
36	1961	14550	4547	1334	4567	
37	1962	25900	7725	2423	7165	
38	1963	27460	8146	2575	9984	
39	1964	30270	8877	2852	13.157	
40	1965	31700				
	1966	41,900				
	1967	45,900				
	1968	46,399.99				
	1969	50,000-				
	1970	54,999.97				
	1971	55,000-				
	1972	71,417.50				
	1973					

PLAINTIFF'S EXHIBIT 18

HAROLD FAGGEN ASSOCIATES EMPLOYEES' RETIREMENT PLAN

PENSION RECORD

Name Harold Faggen — Social Security No. 227-10-8133

Address 42 Eastwood Lane — Valley Stream, N.Y.

Date of Birth May 25, 1912 — Sex M — Pension % 1.5

Date of Employment Date of Establishment — Date of Membership Jan. 1, 1957

Date of Termination 1-26-73 — Reason for Termination

Attained Age	Calendar Year	Compensation	Estimated Retirement Benefit	Yearly Contribution	Total Contribution Plus Interest	
45	1957	39000.	11700	√380	√√15	
46	1958	39000.	11700	√380	11,167	
47	1959	39000	11700	√380	16,961	
48	1960	39250	11764	√416	22,936	
49	1961	40000	11944	√√25	29,173	
50	1962	40250 ~~40000~~	12000 ~~11964~~	5562 ~~5526~~	35,603 ~~35,665~~	
51	1963	40250	12,000 ~~11964~~	5562 ~~5526~~	42,194 ~~42,117~~	
52	1964	50300 ~~40,000~~	13960 ~~11,607~~	7082 ~~5525~~	50,508 ~~42,693~~	
53	1965	52,500				
	1966	67,700.				
	1967	75,700.				
	1968	69,699.98				
	1969	50,000.03				
	1970	50,000.04				
	1971	45,833.37				
	~~1972~~	~~31,361.91~~				
	1972	53,476.65				
	1973	~~3,333.33~~				
		795,583.27				

* Includes 3 weeks vacation

PLAINTIFF'S EXHIBIT 19--SCHEDULE OF LOST CLIENTS

Prepared By		
Approved By		

Schedule of Lost Clients
Return Actuarial Services Inc.
1964-1973

1	Fiscal Year Ended June 30 1966		
2			
3	Local 26 Pension Fund		2000-
4			
5	Fiscal Year Ended June 30 1967		
6			
7	I.U.O.E. Welfare Fund Local 137 137A 137B	2400	
8	Supplemental Upgrading Annual Benefit Fund Loc 137	2400	
9			4800-
10			
11	Fiscal Year Ended June 30 1968		
12			
13	Bartenders Union Dec 29 Pension	2500	
14	Bartenders Union Dec 29 Welfare	2400	
15	NYC District Council of Carpenters Pension	50000	
16	NYC District Council of Carpenters Welfare	28000	
17	Local 164 Pressmen Fund	3600	
18	Local 164 Pressmen Fund	4100	
19	Metro D.C. Pension Fund	4500	
20	Upstate Pressers Pension	2000	
21	Local 206 Lithographers Pension	2000	
22			96700
23			
24			
25	1969		
26			
27	Bartenders I.S. Pension	9700	
28	Bartenders Union Welfare	5814	
29	H.R.D. Bartenders Union Trust Fund	2326	
30	Store Workers Retirement Plan	4444	
31	Store Workers Security Plan	6996	
32	I.W.U.A. Pension Fund	4500	
33			34140-
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			

Plaintiff's Exhibit 19

Prepared By		
Approved By		

Schedule of Local Clients
Seton Actuarial Services Dept
1964 - 1973

Page 7

	1	2	3	4	5	6	7
1	1969 Clients Local & Corp - Continued						
2							
3	Independent Association of Mutual Employees INYL					1000 -	
4	Housewreckers Union Local 95 Pension					3600 -	
5	Candy & Confectionery Workers Union Loc 45 & Pension					3300 -	
6	Plumbers & Fitters Local 79 Pension					850 -	
7	Plumbers & Fitters Local 79 Welfare					750 -	
8	Central NY Bldg Industry Rehabilitative Welfare					3500 -	
9	Local 848 Pension					1000 -	
10	Hotel & Restaurant Employees & Bartenders Union						
11	Local 130 Welfare					750 -	
12	Local 43 Brick Layers Masons & Plasterers Pension					775 -	
13	Local 43 Brick Layers Masons & Plasterers Welfare					775 -	
14	Pavers & Road Builders District Council Pension					3500 -	
15	Pavers & Road Builders District Council Welfare					8000 -	
16	Plasters Shellmasons & Miners Loc 29 Pension					1700 -	
17	Plasters Shellmasons & Miners Loc 29 Welfare					1700 -	
18	Local 543 Steamfitters Industry Pension Fund					2200 -	
19	Rochester Hotel & Restaurant Employees Union						
20	Pension Fund					750 -	
21	Rochester Hotel & Restaurant Employees Union						
22	Insurance Fund					1750 -	
23	NYS Teamsters Conference Pension & Retirement Fund					17500 -	
24	NY S Teamsters Council Welfare Trust Fund					11000 -	
25	Cake Bakers Union Welfare Fund					5100 -	
26	Pension Fund, I.U.O.E. Local 478 A.B.C.D.					4500 -	
27	Welfare Fund, I.U.O.E. Local 478 A.B.C.D					4500 -	
28	Bldg Cemetary Employment Benefits,						
29	I.U.O.E. Local 478 A					3000 -	
30	NY Philharmonic Orchestra					1000 -	
31	Pension Fund, I.U.O.E. Local 14, 14B, 15, 15A, 15C, 15D					10,63 x 50	
32	Welfare Fund, I.U.O.E. Local 14, 14B, 15, 15A, 15C, 15D					10,000 -	
33	Pension Fund, I.U.O.E. Local 136 & 136B					1500 -	
34	Welfare Fund, I.U.O.E. Local 136 & 136B					1500 -	
35	Welfare Fund Engineers Union Local 94 & 94A					2500 -	
36	Metropolitan Opera Orchestra					1000 -	
37	Retirement Fund, Operating Engineers 135					6100 -	
38							1094 x 50
39							
40	Total 1969						143 x x 50
41							
42							
43							
44							

Plaintiff's Exhibit 19

Schedule of Lost Clients
Total Actuarial Services
1964 - 1973

Page 3

1	1970						
2							
3	Local 1199 Benefit Plan					18000 -	
4	Marble Industry Pension Fund					1000 -	
5	Marble Industry Trust Fund					4000 -	
6	Mason-Tenders District Council Pension					2400 -	
7	Mason-Tenders District Council Welfare					16000 -	
8	39 L UMSWA - Field Pension Fund					2400 -	
9							18400 -
10							
11	1971						
12							
13	D.C. 37 AFSCME Pension					1500 -	
14	D.C. 37 AFSCME Welfare					4200 -	
15	Local 140 Pension Fund					2400 -	
16	Local 140 Annuity Fund					1600 -	
17	National Coal Miners Health Benefit Plan					31000 -	
18							40700 -
19							
20	1972						
21							
22	Bluegrass Welfare Fund					2750	
23	Bluegrass Pension Fund					2750	
24	Plumbers Local 775 Pension Fund					3000	
25	Plumbers Local 775 Vested Pension Fund					2100	
26							10600 -
27							
28							
29	1973						
30							
31	Local 76 Security Fund					2400 -	
32	Local 147 Construction Workers Pension Fund					4800	
33							7200 -
34							
35							
36							
37	Total						586.92.50
38							
39							
40							
41							
42							
43							
44							

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PLAINTIFF'S EXHIBIT 23--LETTER TO FAGGEN FROM TITAN

TITAN GROUP, INC.

ROBERT JAMES FRANKEL
CHAIRMAN OF THE BOARD
CHIEF EXECUTIVE OFFICER

December 15, 1971

Harold Faggen Associates
853 Broadway
New York, New York

Attention: Mr. Harold Faggen

Re: Data Processing Operation
Our File RJF #185-55M

Dear Harold:

The concern of Titan with the continuing losses of your data processing operation was reflected by the Executive Committee's recommendation to the Special Meeting of the Board of Directors held on December 9, 1971, that such operation be immediately "phased out" or discontinued by assigning its current contracts to another data processing company.

You responded vehemently that the discontinuance of the data processing operation would result in losses to your actuarial operation and would impose additional losses for continued computer and space rental under lease agreements entered into for the data processing business. You also expressed concern over the creating or giving credence to any rumor that you were discontinuing all business.

You described the additional capacity of the computer equipment recently installed and the potential for sale of time and payroll work.

Despite the urgency of the problem created by your continuing losses, we agreed not to order immediate cessation of business provided we would receive a report from you setting forth your projections:

1) For the data processing operation, if it were to continue in business under previously directed limitations on capital investment and new clients;

2) For the actuarial business for the year 1972;

3) Your estimate of additional revenues by sale of time and payroll services;

1325 INWOOD TERRACE, FORT LEE, NEW JERSEY 07024 (201) 943-7188

4) As to the effect of discontinuance of data processing, both as to the losses estimated to be incurred in such discontinuance and any collateral effect upon the actuarial operation; and

5) A description of any difficulties or problems you anticipate.

We will require also an evaluation of a "phasing out" as contrasted to the sale and assignment of existing contracts.

You indicated that your commitments for the balance of this year and your anticipated surgery in January prevents you from specifying a date for delivery of your report. Frankly, if we are not convinced by your report that the recommendation of the Executive Committee should not be carried out, there will be no alternative but to require termination of the data processing operation effective forthwith.

I urge you to act expeditiously and to complete and deliver the report before you enter the hospital. Any extended delay may result in the conclusion that continuing losses can not be tolerated.

Sincerely,

TITAN GROUP, INC.

By: Robert James Frankel

Chairman of the Board and
Chief Executive Officer

RJF:elb

cc: Daniel G. Hatcher
George F. Duthie
Ronald Rosenfeld
Alvin M. Kendis

HAND DELIVERED

1401

PLAINTIFF'S EXHIBIT 24--LETTER FROM HAROLD FAGGEN ANSWERING TITAN

HAROLD FAGGEN ASSOCIATES, INC.

853 BROADWAY
NEW YORK, N. Y. 10003
477-8106

CONFIDENTIAL

February 2, 1972

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.
1325 Inwood Terrace
Fort Lee, New Jersey 07024

Dear Bob:

Reference is made to your letter of December 15, 1971, a copy of which is enclosed for your convenience.

Before addressing myself to the five questions listed in your letter, I think it is important for you and for the others who were present at the meeting on December 9, 1971 to have a better understanding of the financial operation of an actuarial consulting organization and its need for data processing capabilities.

An actuarial consulting organization such as ours usually has a growing list of client funds, each one of which is in a state of expansion. Usually, when we are retained by a pension fund, that fund has very little money; sometimes there is only a shell with absolutely no money. From the outset, however, we know that there will be contributions to the fund; we know that money will accumulate; we know that the rate of contributions will be increased; we know that investment earnings will eventually be quite substantial; we know that the expenses of administration (including actuarial fees) will ultimately become insignificant in relation to annual income and/or to the principal of the fund. In the usual case the trustees who are entrusted with setting up a new fund are in no position to pay thousands of dollars in legal and actuarial expenses during the first year because these expenses may very well amount to a major portion of the money contributed to the trust during that year. In these circumstances, the attorney who seeks to be retained will generally quote an insignificant fee despite the fact that he may do more work in the first year than in the next 10 years put together; the CPA will sometimes agree to do the first year audit for a fraction of his cost; the actuarial consultant often undertakes to do the initial study at no charge and agrees to begin submitting bills for services only after the fund becomes operative, sometimes as much as a year later.

Our experience has been that we usually have had to spend more money to service a new client during the first year than we have had to spend during the next four or five years combined, despite the fact that our fee during that first year may have been at a very low rate. We always consider ourselves as being

Plaintiff's Exhibit 24

HAROLD FAGGEN ASSOCIATES, INC.

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.

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fortunate if we can hold our costs during the first year down to 200 percent of the fee. At times, if a particular fund appeared to have a very attractive potential, we have agreed not to charge anything for the first year in order to help the fund get started.

An actuarial consulting organization that is acquiring new clients and growing very rapidly cannot possibly show any profit. All its profits are tied up in future potential fees. If there were no income tax laws, a large part of the initial cost of acquiring a client would be deferred which would increase the profits shown and perhaps present a more accurate picture. In order to reduce income taxes, however, actuarial consulting organizations expense the original cost and build good will. When the organization has matured, it can become more selective in taking new clients and grow only as the result of its clients' growth. In that event, net profits increase by leaps and bounds.

As an actuarial consulting organization grows, it must acquire data processing capabilities in order to be able to deliver the results of calculations within a reasonable time. Prior to the advent of computers, an actuary working with a couple of mathematical clerks could determine pension costs for a group of 5,000 employees in two or three months. If the client then wanted to know the cost of a variation, they could probably do the calculations in an additional two weeks. Today, we can put the data for 5,000 employees on magnetic tape in one day and deliver final cost figures for almost every possible variation the next day. Today, every successful consulting actuarial organization has similar data processing capabilities.

Since optimum employment of data processing in connection with actuarial work requires a relatively high degree of sophistication both on the part of the personnel and the equipment, almost every consulting actuarial organization which is large enough to have its own data processing equipment has expanded into some service bureau activity. In many cases the service bureau activities overshadow the actuarial operations in volume because there is so much more business available in that field, albeit at a much lower profit margin. In acquiring data processing business, the experience of the actuarial consultant in underwriting losses on new business stands him in good stead because every data processing organization very often has to underwrite programming costs in order to acquire new business. However, repeat data processing business is even more automatic than repeat actuarial business so that any data processing organization which establishes a large base must make money. It is not possible, however, for a data processing organization to acquire a large volume of business unless it is willing to invest in programs.

You know from your own experience in Sovereign Construction Company that a data processing organization must invest in programs. When you wanted to have us do the data processing work for Sovereign Construction Company, you directed your

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HAROLD FAGGEN ASSOCIATES, INC.

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.

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service bureau to deliver the programs to you and they refused unless you were to pay them $28,000. We were willing to reprogram for much less but you were unwilling to pay anything for programs and we were prohibited by the Board of Directors of Titan from investing in programs. The result was that you found another data processing organization which was willing to take on the work and to absorb the cost of the programs.

We come now to the five questions contained in your letter:

1. What is my projection for the data processing operation, if it were to continue in business under previously directed limitations on capital investment and new clients?

   By now you know some of the consequences of continuing in business under the previously directed limitations. One consequence has been that we did not get the Sovereign Construction Company data processing business. Another has been that we did not get the data processing business of your partner, Jerry Belson. If we could not get this business, I am sure you will agree that we are not likely to get very much new business under the previously directed limitations on capital investment and new clients.

   Operating under these limitations, I nevertheless believe that we can sell sufficient computer time and payroll services to reduce the data processing deficit by 50 percent during 1972 and eliminate it altogether during 1973.

2. What are my projections for the actuarial business for the year 1972?

   As I have already explained, it is not possible to acquire new actuarial business without temporarily depressing net profits. In order to acquire new actuarial business, without burdening the profits of this Division with the cost of acquisition efforts, the prior Titan management set up Titan Employee Benefit Consultants with an initial budget of nearly $100,000 a year. While Daniel Kalish, who created TEBC, projected a bright profit picture, the prior Titan management knew that it would take longer to reach the goals which he projected. They, nevertheless, decided to underwrite the cost. When you became Chairman of the Board, one of your first acts was to terminate TEBC.

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Mr. Robert James Frankel
Chairman of the Board and
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I hold no brief for the capabilities of the prior Titan management nor am I at all critical of the decision to terminate the operation of TEBC in order to conserve the cash which Titan needed. My only reason for referring to TEBC is to enable me to answer this question fully and completely. There has been no aggressive sales effort in connection with our actuarial business for well over three years. Such growth as has taken place has been the result of the operation of the forces described in the early part of this letter. There can be no doubt that we can acquire new actuarial business because we are confident that an ever increasing proportion of the gross national product will go into pension funds. Present tax laws are conducive to the proliferation and growth of pension funds; changes in the laws proposed by both the Republicans and the Democrats, some of which will become law, will not only increase the rate of proliferation and growth of pension funds but will also increase their need for the services of actuarial consultants. If we do not institute a sales program, I am confident that we shall get some of the new business as I indicated earlier, however, if we were to embark on a course of acquiring $50,000 a year in new business - business which we would not otherwise acquire - net profit during the first year could be depressed by up to $50,000 and during the second year, net profit could be depressed by up to $25,000. During the third year, however, net profit should return to the level at which it would have been in the absence of the sales program and thereafter net profit should continue to increase, even if the sales effort is continued.

As to a projection for the existing actuarial business for the year 1972, much depends on the continuation of price and wage controls. The union trustees, comprising 50 percent of each board, have been hard hit by wage controls and have become the Government's best price controllers. We could get increases in fees amounting to two or three percent from almost all of our clients but we are reluctant to ask for such small increases because we believe that the controls will be relaxed and we shall be able to get much more meaningful increases in most situations. Meanwhile, we have been forced to grant salary increases amounting to slightly more than five percent. Under all the circumstances, it is my opinion that our net profit on the existing actuarial business will be just about the same as it was in 1971 - approximately $310,000. (We anticipate that our total results in 1971 will be a pre-tax net of about $135,000 - the loss on data processing being about $175,000.)

See PP 4. [illegible] increase in fees [illegible] loss [illegible] projected

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Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
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February 2, 1972

3. My estimate of additional revenues by sale of time and payroll services has already been touched upon in connection with No. 1, above. I do not believe I can add to this, until we have had more time to explore the market.

4. What are my projections as to the effect of discontinuance of data processing, both as to the losses estimated to be incurred in such discontinuance and any collateral effect upon the actuarial operation?

It is my belief and there is a consensus of opinion that the loss on our data processing operations during 1972 will be approximately $90,000 and that the loss will disappear during 1973. Of course, if we were to have very moderate success in selling time and payroll services, and, if we were to obtain the Sovereign Construction Company work and the work controlled by Jerry Belson, there is a possibility that we will earn a profit on data processing during 1973.

Assuming the worst picture, however, that the data processing operation will incur a loss of approximately $100,000 during 1972 and that it will incur a loss of $50,000 during 1973, how does this compare with the alternatives available to us?

Other than continuing the data processing operations as outlined above, there are only two alternatives available to us - we can either phase out the data processing operation or we can attempt to sell it to a purchaser who will undertake our existing contracts. Assuming that we could accomplish either of these alternatives, without affecting the relationship of our actuarial operation with the clients, how much of the overhead costs which are now charged to our data processing operation will remain to be paid by the actuarial operation?

Included in the deficit of the data processing operation are a rental charge of $23,000 a year and a charge of $83,000 for 25 percent of the total general and administrative expenses. As an offset, the actuarial operation has been charged and the data processing operation has been credited with $100,000 for data processing service provided to the actuarial operation.

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HAROLD FAGGEN ASSOCIATES, INC.

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.

February 2, 19.?

If data processing operations were to terminate immediately, by means of either of the two alternatives, the actuarial operation would have to make other arrangements to obtain the data processing services it requires and we estimate that this would cost a minimum of $30,000 a year more than the $100,000 being allowed to our data processing operation. While we believe the space occupied by the data processing operation can be subleased, there is so much vacant office space in this building that I doubt that any part of it can be subleased during 1972 or 1973 so that the actuarial operation will have to absorb the full $23,000 rental cost. As to the $83,000 of general and administrative expenses charged to the data processing operation, I believe that this can be reduced gradually but I do not believe that it can be reduced below $50,000 during the balance of 1972.

My best estimate of the impact of an immediate discontinuance of our data processing services for outside clients on the approximately $310,000 profit which we expect to earn on our actuarial business during 1972 is that the $310,000 would be reduced by $23,000 for rent, $30,000 for additional data processing costs, and $50,000 for general and administrative expenses so that the best we could look forward to would be a profit of slightly more than $200,000. The projected profit of this subsidiary for 1972 would be further reduced (still assuming no adverse impact on our actuarial business) by the discontinuance of the data processing operation because there would be penalties for termination of the machine rental agreement amounting to approximately $60,000 and there would be severance payments amounting to approximately $45,000 so that the net profit of this subsidiary for 1972 would be about $100,000, under the best of circumstances.

5. A description of any difficulties or problems I anticipate.

We have very carefully weighed the immediate impact on our actuarial business of a cessation of data processing services and we believe that we would continue to be retained to render actuarial services by almost every client for the balance of 1972. However, we find that almost everyone of our clients has already been solicited by competitors who offer both actuarial and data processing services so that we can expect every client for which we perform data processing services to obtain those data processing services

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HAROLD FAGGEN ASSOCIATES, INC.

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.

February 2, 1972

from one of our competitors in the actuarial field. From that point on, it is only a matter of time before the client will be convinced that it would be better to obtain actuarial services and data processing services from the same organization.

I have already reported to you and to the other directors on a number of occasions that the competition has been soliciting our clients for quite sometime using the threat that I will no longer be associate with the organization after the expiration of my contract on December 1, 1971. We did lose a few minor accounts but we were able to convince the important ones that I would not be leaving the organization. My continued association with the organization after December 1, 1971 seemed to slow down the aggressive solicitation by competitors. Now, however, there is increasing evidence of a new aggressive solicitation of our clients and I have been called upon to answer such questions as:

a. If you are not retiring, why wasn't your contract renewed?

b. How do you explain the fact that Titan subsidiaries in this area are not giving you their data processing work?

c. Will you continue to be on the Board of Directors or will we be dealing with a large construction company?

My answers to these questions have been as follows:

a. I have been unwilling to sign a contract for any length of time because of the wage freeze and the decision of the Titan Board of Directors that no Officer will receive more than a 5.5% increase in compensation, effective after August 15, 1971.

b. Titan subsidiaries have given us their data processing work as fast as we have been able to absorb it. We have taken over practically all the data processing work of Alliance Brokerage and we have no reason to believe that we will not take over the data processing of the other subsidiaries as soon as we can do so without disrupting their operations or interfering with our ability to properly service our other clients.

Plaintiff's Exhibit 24

HAROLD FAGGEN ASSOCIATES, INC.

Mr. Robert James Frankel
Chairman of the Board and
Chief Executive Officer
Titan Group Inc.

February 2, 1972

c. I am not aware of any intent to turn Titan into a construction company to the exclusion of all else. Titan has had a very attractive offer for the sale of its Insurance Division but there has been a firm decision not to permit Titan to become solely a construction company. When Sam Bergman decided that he could no longer be a director, management chose Herzl Mendelsohn as his replacement because they did not want any interruption in the continuity of policy. If the current management had intended Titan to become more of a construction company, they could very easily not have elected either Herzl Mendelsohn or me to the Board in May 1971.

It is difficult to summarize a letter such as this. Fundamentally, the nature of our business requires investment to accomplish growth. This investment, which is expensed and not amortized, affects current earnings adversely. If we were allowed to grow during 1972, 1973, and 1974 and then level off, we would, in my opinion, be making considerably higher pre-tax profits each year beginning in 1975. The amount of the increase in profits would depend on the amounts invested.

One comment. I have remained in my job after the expiration of my contract because I believe that the best interests of Titan require it. I cannot state that I will continue indefinitely without the understanding and support of you, the Board and the entire Titan Organization.

Sincerely,

Harold Faggen

HF:js
cc: To all persons on attached list.

OPEIU 153, AFL-CIO

P.S. All 1971 figures are subject to audit adjustments.

PLAINTIFF'S EXHIBIT 25--LETTER FROM TITAN TO FAGGEN

February 3, 1972

CONFIDENTIAL

Harold Faggen Associates, Inc.
853 Broadway
New York, New York 10003

Attention: Mr. Harold Faggen

Re: Data Processing Operation
Our File RJF #185-55M

Dear Harold:

Thank you for your letter of February 2, 1972. In reviewing contents of said letter, several questions arise: They are:

1) Please furnish an itemized list of the actuarial clients which your company is presently servicing, setting forth the date when said clients first contacted your office for service, the fee structure paid by said clients for each year of service, the cost of servicing said clients for each of said years, and the anticipated growth of fees to be generated from each of said clients, including the net profit to be realized therefrom.

2) With respect to the data processing services, please furnish the same information as set forth in paragraph 1 above.

3) Please itemize your service bureau data processing activities outside of the actuarial clients, indicating the same information as set forth in paragraph 1 above.

4) It is difficult to understand your statement on page 4 that "there has been no aggressive sales effort in connection with our actuarial business for well over three years", inasmuch as the restriction with respect to your activities only concerns the data processing operations and was only directed to you in the latter part of 1971. What precluded an aggressive sales effort prior to that time?

Plaintiff's Exhibit 25

5) It is also difficult to understand why you are not anxious to get increases in fees if they are available at this time, as long as you protect the possibility of getting additional increases at the time controls are lifted. Considering the unsatisfactory net profit position of the Faggen operations, it would seem that anything that would improve this picture should be initiated as soon as possible.

6) With respect to the two alternatives suggested by you as being available to us (page 5 of your letter), we wonder if you have taken any action to explore those alternatives and to really determine the cost to TGI of such alternatives. You assume, for instance, that if you were to dispose of the data processing phases of your operations that the company would not utilize the equipment presently on rental. We think this could be structured as part of the deal. It might even take over the general administrative expenses which are applicable to your data processing operations under a phase-out program.

It just appears that no effort is being made by you to hedge this unsatisfactory situation and that you are content to continue on a "status quo" basis.

The Executive Committee has previously indicated to you, and I personally re-emphasize the position that TGI must receive sufficient income from the Faggen operations to warrant the continuance of this Division. The profit picture for the year 1971 is unsatisfactory and must be improved upon as soon as possible.

As soon as we have your reply to the questions set forth above, we shall be able to better determine the course of conduct available to TGI.

Accordingly, your prompt reply is requested.

Very truly yours,

TITAN GROUP, INC.

By: Robert James Frankel

Chairman of the Board and
Chief Executive Officer

RJF:elb

cc: Ronald Rosenfeld
George F. Duthie

PLAINTIFF'S EXHIBIT 26--MEMO RE MASON TENDERS LITIGATION

M E M O R A N D U M

TO : BENJAMIN M. ROBINSON
FROM : MATTHEW SILVERMAN
RE : MASON TENDERS DISTRICT COUNCIL PENSION AND WELFARE FUNDS
DATE : APRIL 11, 1972

In July, 1968 Richard E. Stewart as Superintendent of Insurance of the State of New York brought a proceeding in the Supreme Court of the State of New York for an order directing him to rehabilitate the Mason Tenders District Council Pension Fund. At the same time a similar proceeding was brought to rehabilitate the Mason Tenders District Council Welfare Fund. The Trustees of both Funds were the named defendants.

With respect to the Welfare Fund, the proceeding was based in part on the following types of alleged mismanagement and misconduct as summarized in the Attorney General's memorandum:

1. Overpayment of premiums on behalf of persons who were not eligible for benefits.

2. Widespread irregularity in the payment of claims.

3. Failure to require all employers to submit to audits as specified in the collective bargaining agreement.

4. Failure to keep proper and adequate records.

5. General expenses and cost of professional services are excessive and inordinate in relation to contribution income.

6. Extension of benefits to business agents without contributions in violation of Insurance Law.

With respect to the Pension Fund, the proceeding was based in part on the following types of alleged mismanagement and misconduct as summarized in the Attorney General's memorandum:

1. Failure to maintain adequate and proper records.

2. Improper crediting of death benefits on behalf of individuals who were not eligible.

3. Failure to require all employers to submit to audits as specified in the collective bargaining agreement.

4. General operating and professional expenses that were inordinate and excessive in relation to contribution income.

The Superintendent of Insurance on August 5, 1968, pursuant to the Order of Justice Birdie Amsterdam issued July 31, 1968, appointed George Hughes, George Purlie, Raphael Siegal and Murray Simon to control the conduct and affairs of the Mason Tenders District Council Pension Fund. On the same day, pursuant to a similar Court Order, the Superintendent appointed the same persons for the same purpose in regard to the Mason Tenders District Council Welfare Fund.

Thereafter, motions and cross motions were made resulting in an Order by the same Judge dated August 15, 1968 to the effect that the Trustees, management and employees of each Fund could continue normal and usual operations, but under the supervision of personnel of the Department of Insurance assigned by the Superintendent and with the further safeguard of the appointment of a referee to

settle all disputes between the parties as to business transactions and procedures during the period pending trial so that the interests of all members of the respective Funds would be fully protected.

Thereafter, an application for a stay pending an appeal was made to the Appellate Division by the Trustees. The application was denied. The Trustees interposed answers and the cases awaited trial. In the meantime, the Trustees and the Insurance Department sought to work out their differences looking to a settlement of the proceedings.

Many recommendations were made by the Insurance Department in regard to the administration of both Funds as well as in regard to amendments to the Plans. The final conditions and amendments proposed by the Insurance Department as a basis for disposing of the proceedings were acted upon favorably by the Trustees of both Funds at a joint meeting of the Mason Tenders District Council Pension and Welfare Funds held on March 23, 1970. The conditions proposed by the Insurance Department involved many administrative changes, some of which were deferred pending the employment of a new Administrator, and in this connection there was the condition that there be acceptance of the resignation of the Administrator. It had, of course, been shown that Harold Faggen Associates as actuary-consultant had nothing whatever to do with the administrative areas under attack.

Insofar as the cost of the professionals was concerned, the Insurance Department took the position that too many lawyers were retained and that the Trustees were to reconsider the need for multiple attorneys. As to Harold Faggen Associates, Inc., the Insurance Department took the position that the retainer fees were excessive and that the retainer arrangements for the consulting services for the Welfare and Pension Funds be terminated effective April 1, 1970, without prejudice to the continued employment of Harold Faggen Associates, Inc. as consultant to the Funds on a fee basis as required.

Thereafter, I do not know the date, Harold Faggen Associates, Inc. ceased to be consultant to these Funds and we were no longer concerned with the proceedings. Harold Faggen Associates, Inc. was never a party to the proceedings.

We were retained to keep track of the case and to see to it that the Insurance Department was aware of the limited scope of the functions of Harold Faggen Associates, Inc. so that the alleged administrative irregularities would not be ascribed to his company.

1415

Plaintiff's Exhibit 26

ROBINSON, SILVERMAN, PEARCE, ARONSOHN, SAND & BERMAN
230 PARK AVENUE
NEW YORK, N. Y. 10017

Mr. Robert James Frankel
Titan Group, Inc.
1325 Inwood Terrace
Fort Lee, New Jersey 07024

TO BE PICKED UP

PLAINTIFF'S EXHIBIT 27

ORIGINAL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

TITAN GROUP, INC.,

Plaintiff,

- against -

HAROLD FAGGEN,

Defendant.

Examination before trial of RICHARD K. McINTYRE, taken by the Plaintiff pursuant to notice, at the offices of Powers & Gross, Esqs., 110 East 59th Street, New York, New York, on Wednesday, September 26, 1973, at ten o'clock in the forenoon, before William Newrock, a Certified Shorthand Reporter and Notary Public within and for the State of New York.

BAR ASSOCIATION REPORTING SERVICE
WILLIAM NEWROCK, CSR
80 WEST 40TH STREET
NEW YORK 36, N. Y.
MURRAY HILL 7-0366

A P P E A R A N C E S:

POWERS & GROSS, ESQS.
Attorneys for Plaintiff
110 East 59th Street
New York, New York

By: LAWRENCE POWERS, ESQ.,
of Counsel

SHEIB, SHATZKIN & COOPER, ESQS.
Attorneys for Defendant
235 East 42nd Street
New York, New York

By: BURTON S. COOPER, ESQ.,
of Counsel

* * * * *

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that the sealing, filing and certification of the transcript of the within examination be, and they hereby are, waived; and that said transcript may be signed and sworn to before any Notary Public or Commissioner of Deeds with the same force and effect as if before an officer of this Court;

IT IS FURTHER STIPULATED AND AGREED that

question, are reserved to the trial of this action.

* * * * *

R I C H A R D K. M c I N T Y R E, residing at 3500 Hillstone Court, Northeast, Atlanta, Georgia 30319, having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY MR. POWERS:

Q Mr. McIntyre, when did you first meet Harold Faggen?

A I think it was some time during 1968.

Q Can you fix a month?

A No, I can't.

Q Was it after a basic businessman's understanding had been reached between Titan and him on an acquisition of his companies?

A No.

Q It was before?

A Yes.

Q Do you recall where you met him?

A I think it was at Ben Robinson's office.

Q But you are sure it was before there was an understanding on the acquisition?

A Yes.

Q When I say "understanding", I don't mean the formal contract. I mean the businessman's handshake.

A Yes.

Q Now, Mr. Faggen has testified that that understanding was reached on or about October 2, 1968.

A Yes.

Q Now, would that fix in your mind the date of your first meeting with him?

A No. Because it was substantially prior to the -- to any negotiations. I just met him as a friend of Ben's who happened to be in the office.

Q What did you say to him at that meeting?

A Hello.

Q What did he say to you?

A Glad to meet you.

Q What did Ben Robinson say at that meeting, if anything?

A Nothing. He just introduced me in the hall in his office.

Q Did you talk about the proposed acquisition

of his companies by Titan?

A No.

Q When was the next time you met him?

A I am not sure -- perhaps in October.

Q And was that after a businessman's understanding had been reached?

A I don't know.

Q All right. Where did you meet him the next time?

A At Titan's office.

Q And who was present?

A I don't remember.

Q Did you talk to Faggen?

A Not other than to say hello and how are you.

Q You didn't discuss his deal at all?

A No.

Q When was the next time you met him?

A I have no recollection of what the sequence was.

Q Did you ever talk to Faggen about his deal with Titan before the deal was closed? We are trying to bracket the period for you, October 2, 1968, when the handshake was reached, and December 2, 1968, when the contract was closed.

Did you talk to Faggen during that two-

month period?

A Yes.

Q How many times?

A I guess half a dozen.

Q What did you talk about, in substance?

A Some time we -- it was just a social meeting in the hall, you know, of the company -- something like that. Or other times that -- check with him to see how his accountants were doing as far as getting the statements up that we needed for closing.

Q Right. Any other conversations?

MR. COOPER: What period are we talking about now?

MR. POWERS: Two months between October 2 and December 2, 1968.

A Well, in general, just following on checking on the financials as they were being developed.

Q Who was doing the developing?

A His accountants, Warren & Company, I believe was the name.

Q And who was doing it for Titan?

A We weren't doing it because they were going to furnish statements.

Q Was Russo the man you put on overseeing

the job, whatever was being done?

A Yes.

Q That is Vincent Russo?

A Yes.

Q Now, did you talk with Faggen about his earnings?

A Not that I remember, particularly; more interested in just getting the cutoff balance sheet.

Q And did you talk to Faggen about any adjustments to his earnings?

A Yes.

Q When was that?

A Some time in that two months period.

Q What did you say in discussion?

A I asked him what made up some of the adjustments.

Q With reference to what earnings? When you say what made up some of the adjustments, adjustments of what? What were you talking about?

A Adjustments to the tax returns as reported; in relation to the pro forma that we had been looking to.

Q Which pro forma was that, Mr. McIntyre?

A That was a one-page statement of earnings, a pro forma basis.

Q For four years?

A Yes.

Q You are talking about that schedule annexed to the complaint?

A Yes.

Q In that memo that went to the board; is that right?

A Right.

Q I think we will call it Exhibit A to the complaint, just so that we can identify it on the record; but that is the schedule you are talking about?

A Correct.

Q What did you ask him about this pro forma schedule?

A What were the items that made up the adjustments.

Q And what did he tell you?

A Well, we discussed the pension overfunding; salary adjustments. There were about four or five items, State and Federal taxes; travel, entertainment expense; and his outside fees.

Q Was anything else discussed?

A Perhaps there was, I just don't -- I am trying to take off the main items.

Q Did he give you anything in writing on it?

A Not to my recollection.

Q Did he give Russo anything in writing on it?

A No.

Q Did he give --

A Not that I know of.

Q Did he give anyone in Titan anything in writing on it, that you know of?

A I just don't remember right now.

Q What did he tell you about salary adjustments?

A That he and Mrs. Dogan were drawing pretty good sized salaries and they were going to have those adjusted downward to what had been agreed to.

And as a resutl there would be that savings as far as salary expense.

Q Did he tell the magnitude of the savings?

A Yes. And I don't remember what it was right now but it was upwards of $50,000 or more, as I am recollecting it.

Q Did he tell you what it was for all four years, previously?

A No.

Q You didn't go into any year but 1968, did you?

A That was the year I was looking at.

Q What did he tell you about State and Federal taxes?

A Well, I just looked at the tax returns to see what the adjustments were on that, add those up.

Q When somebody refers to earnings on a pre-tax basis, from your experience as an accountant does that usually exclude Federal taxes; when you say "pre-tax", do you usually mean to exclude Federal taxes?

A Yes.

Q Do you also usually mean to exclude State and local taxes?

A If applicable.

Q Isn't it more customary when you say "pre-tax" to be talking in terms of just pre-Federal axes?

A Not necessarily.

Q Is it done both ways?

A I have --

Q Excuse me.

A I have done it both ways.

Q So that some accountants when they make a determination of net income pre-tax will take a deduction from the net income nonetheless for State and

Plaintiff's Exhibit 27

local taxes; is that correct?

A That may be. I don't know.

Q Have you done it in that way on occasions?

MR. COOPER: Note an objection to this.

Go ahead and answer it.

A Not that I can remember.

Q Have you seen other accountants do it that way on occasion?

MR. COOPER: I will object to that.

Go ahead and answer it.

A When it applied to States that you had to pay tax in regardless of Federal.

Q Would you explain your answer to me? I am not sure I understand it.

A Some States have a certain type of taxation where they are based upon gross revenues or something like that.

So that you have to pay that like a sales tax. But it is considered a corporate tax.

Q So you treat that as a cost of doing business?

A Yes.

Q And you net it out of net income pre-tax; is that right?

A Yes.

Q Now, would the New York City tax on Unincorporated Businesses fall in that category?

MR. COOPER: I will object to the form of the question.

A I am not -- I don't remember what the -- I don't know that there was an unincorporated business tax, but it wouldn't have been applied here because we were a corporation.

Q What about Harold Faggen's personal accounting records; wouldn't that be subject to unincorporated business tax?

A Not if it came into our company.

MR. COOPER: Let the record indicate also that we are talking about the year 1968 and I am quite sure that in that year there was no unincorporated business tax in the City of New York.

Q What other taxes are there in the City of New York that apply to corporations?

A I think there is a sales tax or use tax on rent, or something like that.

Q And that is automatic, whether or not you have income or not; isn't it?

A Yes.

Plaintiff's Exhibit 27

Q So that would normally be deducted from pre-tax income, wouldn't it?

A Say it again.

Q That would normally be deducted from pre-tax income, wouldn't it, as a charge of doing business, regardless of what your earnings were?

MR. COOPER: Hold it, Mr. McIntyre.

I am going to object to this unless counsel is able to show that at the time that these questions were asked those various taxes were in effect and applicable.

Q Now, what did you talk about on pension overfunding?

A The fact that the pension plan was overfunded.

Q Did you talk about how much?

A No. No.

Q Did you make any attempt to determine whether anything would ever have to be contributed to the pension plan in the future?

A No.

Q Did you make any attempt to determine whether anything would have had to have been contributed to the pension plan in the years before 1968, 1967, 1966?

A No.

Q Or 1965?

A No.

Q You didn't get into that issue at all with Faggen?

A No.

Q You just accepted his numbers?

A I checked the numbers on the tax return and they had been deducted for --

Q Did you make a check for years before 1968?

A Not to my recollection.

Q And what did he tell you about travel and entertainment?

A That he had charged considerable sums to the business, as all individuals will do.

Q Did he give you a number for that, Mr. McIntyre?

A I don't remember any hard number.

Q He just spoke about it in a rather vague way; is that right?

A He itemized some of the things that he had charged to the company.

Q Did he write them down?

A Not that I remember.

Q Just ticked them off on his fingers?

A Yes.

Q And he ticked them off in the form of kinds of things rather than amounts, didn't he?

A That is the way I remember it.

Q Like you would talk about cars and talk about vacations, and he talked about his boat; is that right?

A Right.

Q But he didn't talk about what the cars cost or what the vacations cost or what the boat costs; did he?

A No.

Q Is your answer "no"?

A Right.

Q All right. What did he tell you about his outside fees?

A That he had earned these and they would become income to the corporation upon the acquisition.

Q Mr. McIntyre, do you remember, at the time of that motion we had last year giving an affidavit for Mr. Faggen?

A Yes.

Q Do you remember reading a reply affidavit to that by Dan Hatcher? Did you review a reply affidavit?

A Yes.

Q Now, do you recall that Hatcher made some reference in his reply affidavit to searching through your files that were left at Titan, in connection with the acquisition and findings and papers in your file; do you remember that?

A Yes.

Q And do you remember looking at the papers? Do you remember looking at the papers?

A I remember seeing some copies.

Q Okay.

MR. POWERS: Off the record a minute.

(Discussion off the record.)

Q I show you this Exhibit 1 to the Hatcher reply affidavit on the motion for summary judgment.

Mr. Hatcher says he found certain documents in your files at Titan. Now, first, there is a covering memo --

MR. COOPER: Excuse me a moment. Mr. Hatcher doesn't say he found them.

MR. POWERS: He doesn't say we found them.

Plaintiff's Exhibit 27

MR. COOPER: Specifically Hatcher said that -- he doesn't identify he found them; he just says that these were the papers --

MR. POWERS: When I say "Hatcher", I really mean Titan.

MR. COOPER: All right.

BY MR. POWERS:

Q Now, this memo, which is on a sheet of notepaper headed Richard K. McIntyre, that is in your handwriting, is it?

A Yes.

Q. And then under that there is Exhibit A, the pro forma net income statement which is Exhibit A annexed to the complaint, and are those numbers at the foot of each column in your handwriting?

A They do not appear to be.

Q They are not in your handwriting?

A No.

Q Now, seeing this copy again, do you recall having that Exhibit A in your file, having it in your possession at that time?

A No, I don't.

Q When I say "at that time", I mean back in October of 1968.

Plaintiff's Exhibit 27

A I don't remember it being in the file.

Q I see. Well, look at your memo and tell me what these notations in your handwriting on your memo show.

A It looks like I picked up the accounts receivable--off of some balance sheets some place. Again I don't know what this -- (Indicating) -- what it -- may be an appreciation of investments. I think that is what that is.

Q And now I call your attention to the pro forma net income statement. It has written on it, "without investment income".

Do you recall seeing that?

A Yes, I have seen it.

Q Now, I call your attention to the first page on this memo.

Is that your handwriting?

A Yes.

Q And what did you have written down there?

A I was computing the net worth for adjustment after we acquired the property, the companies.

Q Your concern was really to verify the net worth that was on the balance sheet; is that right?

A Yes.

Q Now, was that the substance of your whole inquiry before the acquisition to verify net worth?

A No. This was something I did gratuitously for myself.

Q What was the substance of your inquiry that you made before the acquisition?

A Just to see that the statements were -- was in the realm of reasonableness.

Q The balance sheet was there, is that right?

A Yes. That was going to be there from the tax returns.

Q Right.

Did you make an audit of the income statements?

A Only for the last three months of the year.

Q And you made no audit for the preceding period of 1968, did you?

A No.

Q And you made none for 1967, did you?

A No.

Q And none for 1966?

A No.

Q And none for 1965?

Q And from your knowledge, did Titan ever make an audit of those income statements for those earlier years, after the acquisition?

A Not while I was still with Titan.

Q And when did you leave Titan?

A In July of 1969.

MR. POWERS: Off the record.

(Discussion off the record.)

Q Now, Mr. McIntyre, when did you tell me you left Titan?

A In July of --

Q 1969?

A -- of 1969, yes.

Q Did you ever have any contact with the Harold Faggen companies after you left, until this case?

A No.

Q How did you come in contact with Mr. Faggen after this case started?

A Harold called me.

Q Where did he call you, down South?

A In Atlanta.

Q What did he say to you when he called you?

A He asked me if I would mind making an affidavit

Q What did you say?

A I said no.

Q Did he tell you any facts?

A Not outside of the fact that there was a suit going between he and Titan.

Q And did you then have a personal meeting with Harold Faggen?

A Yes.

Q Where was that?

A At Mr. Cooper's office.

Q He paid your fare up here?

A Yes.

Q And what was said at that meeting?

A Will, --

Q Was Harold present at the meeting?

A Yes.

Q Harold, you and Mr. Cooper?

A Yes.

Q Was anyone else present?

A I don't know. I think just the three of us.

Q Was Labaton present, one of Mr. Cooper's partners?

A He was in and out of the office, but I don't know that he was present at the --

Q Now, what did Faggen say to you at the meeting, if anything?

A Well, recapped the lawsuit, and --

Q What did he tell you about the lawsuit?

A That he was having a hassle with Titan over the payment.

Q What else did he tell you?

A And he would like me to make a statement of what I knew about the transaction.

Q And did you then make a statement to him?

A Yes.

Q What did you say?

A I said yes, I would.

Q What did you tell him about your knowledge of the transaction? Did you tell him anything?

A No more than what I had in my affidavit.

Q Did you write that affidavit?

A Final draft, I worked with Mr. Cooper on.

Q You worked with Cooper on it?

A Yes.

Q Cooper wrote it, didn't he?

A He drafted it and then I --

Q You went over it with him?

A Yes.

Q How many drafts did you go through?

A I think -- I don't think but one.

Q How long were you in town working on it?

A I came in one day and left the next, as I remember.

Q Was it typed up in draft form before you arrived?

A No, not that I remember.

Q Was it drafted for the first time the day you were there?

A To my recollection, yes.

Q And was it then redrafted?

A I don't think so.

Q Was it retyped?

A Oh, well -- I had it typed in final form myself.

Q Where did you have it typed in final form?

A In Atlanta.

Q Did you make some changes in it between the one you took away from the Cooper office and the final one you signed in Atlanta?

A Yes.

Q All right. I call for the production of your draft, the draft you took with you --

A Yes.

Q -- from New York to Atlanta.

A Yes.

Q And did you do any redraft down there before you did the final one?

A No.

Q Do you have that draft with you by any chance?

A No.

Q Is it a big hassle to get it?

A I don't think I've even got it.

Q Do you have a copy of the draft that you reviewed in Cooper's office?

A No.

Q Does Cooper have a copy of it?

A Not to my knowledge, no.

Q Will you ask Mr. Cooper to provide to you the first draft of that that you worked on in his office?

MR. COOPER: I can tell you now I have no drafts.

MR. POWERS: You have no drafts?

MR. COOPER: No.

MR. POWERS: Don't you have a copy of the agreement that he took with him down to Atlanta?

MR. COOPER: Copy of what?

MR. POWERS: The affidavit; that he took down to Atlanta with him.

MR. COOPER: No, I don't.

As a matter of record, I don't make it a practice -- I don't recall having any drafts -- keeping drafts of things that I don't need.

BY MR. POWERS:

Q What changes did you talk about in your affidavit, when it was being prepared?

A I don't remember any one in particular, because it tracked pretty well what I had said.

Q Now, was this memorandum, which we will call Exhibit A, the pro forma financial statements, distributed to the Board of Directors of Titan?

A I am not sure.

Q You got a copy of it, though, didn't you?

A Yes.

Q And a copy I showed you with your notes annexed, was that the copy you got?

A No. There was another one that I had at one time.

Q And where is that copy now?

A Wherever it was, it was left in my files at Titan.

Q Now, what difference was there between the other copy and the one I showed you from your files at

A My recollection is that it didn't have this -- without investments or exclusive investment income -- on it.

Q Is that the only difference you recollect?

A Yes.

Q Do you recall whether you had two copies of it or just one?

A Two copies of --

Q Of the memo.

A I could have had two or maybe only one. I don't know.

Q And if you had only one and it is the one I showed you which said "exclusive investment income", it would mean your recollection is inaccurate, isn't it?

MR. COOPER: I will object to that as argumentative.

Q Are you concerned as to whether your recollection is accurate, after seeing the document I just showed you?

A No.

Q You think your recollection is accurate that it didn't say "exclusive investment income"?

A Yes.

Q And do you know of any other place where such a memo would be?

A Well, that could have been in my file, too, as far as I know.

Q You didn't have a memo from your files with you when you did this affidavit with Harold Faggen, did you?

A No. I left all my files with Titan.

Q So this affidavit you did with Harold Faggen was entirely on recollection, without having any of your files in your possession; is that correct?

A Right.

Q Now, I show you the original of that exhibit to the Hatcher affidavit, which we have discussed.

Now, first off --

MR. COOPER: Can we mark that, Mr. Powers,

MR. POWERS: Yes, we are going to.

MR. COOPER: -- for purposes of reference.

MR. POWERS: I think it is a good idea.

Let's mark this first. This is some material taken from Titan's files, which were listed under the name Richard K. McIntyre - Faggen Transaction, and I would like to mark this as Plaintiff's M-1, to indicate that it is of the

witness McIntyre.

(Material from files of Titan Group, Inc., listed under the name Richard K. McIntyre-Faggen Transaction, was marked Plaintiff's Exhibit M-1 for identification, as of this date.)

MR. COOPER: I have no objection to the designation, but I do object to the statement characterizing it.

MR. POWERS: I am just using it for descriptive purposes in the deposition; you are not bound by my statements.

MR. COOPER: I know that and for the purpose of the witness, too, I want the witness to understand that.

Mr. Powers has characterized this as from Titan's files under McIntyre, and that is a statement that he has made. It is a question for you to say whether or not that was in your files, not his statement.

BY MR. POWERS:

Q Now, I show you, sir, the first page of M-1. Is that in your handwriting?

A Yes.

Q That is the same first page I showed you

in copy form before.

A True.

Q All right. Now, I show you the second page, which is a piece of notepaper with penned writing on it, saying, from the desk of -- memo Richard K. McIntyre.

Now, is that from your memo pad?

A Yes.

Q And is that your handwriting on the memo?

A Yes.

Q All right. I show you the third page, and ask you if that refreshes your recollection on the pro forma income statement which you had at the time. That is the original of it.

(Document handed to witness.)

Is that the one that was in your files?

A It could have been.

Q Do you know of any other in your files besides that?

A I seem to recollect one that did not have the investment income notation on it.

Q But you don't have it; is that correct?

A No, I do not have it.

Q Now, Mr. McIntyre, you notice that

the phrase "excludes investment income" is written in pen, isn't it?

MR. COOPER: Is the word "exclude" or the word "without"?

Q Without. "Without investment income" is written in pen, isn't it?

A Yes.

Q Whose handwriting is that, if you know?

A I don't know.

Q Is it your handwriting?

A NO.

Q So it was the handwriting of whoever gave you the document, isn't it?

MR. COOPER: I will object to that.

A Not necessarily.

Q All right. Was the handwriting on there when you received the document?

MR. COOPER: He has testified he doesn't recall receiving it.

MR. POWERS: All right.

Q But looking at the document again, do you recall anyone making a notation on there after you received it?

MR. COOPER: You are making an assumption

that he received it and he has already testified that he has no recollection of having received it.

Q Was there such a document in your files?

MR. COOPER: He has already testified it might have been.

A No.

Q Now, do you recall anybody writing anything on the document in your file after you received it?

MR. COOPER: Which document are we referring to?

Q Whatever document you had that said that was a pro forma income statement, whether it was this or any other one that you had.

A So many people had access to my files. I wouldn't say that anybody could have done it.

Q I see.

Do you know of anyone making any notations in your files?

A From time to time, various personnel come in and give me memos or write something on stuff that I had. My files were open to all the accounting department.

Q Do you have any recollection of anybody doing that to this file?

A I just have no recollection on that point.

Q But you gave your affidavit entirely on recollection, didn't you?

A Yes.

Q And you had no written material from your files before you at all when you made that affidavit in Mr. Cooper's office, did you?

A No.

Q Now, I show you another document which was obtained from your files.

MR. POWERS: Would you mark it, please, M-2.

MR. COOPER: Again, I will object to counsel's characterizing it as having been obtained from Mr. McIntyre's files. Mr. McIntyre hasn't so testified.

(Document, as above referred to, was marked Plaintiff's Exhibit M-2 for identification, as of this date.)

Q Now that you see the penciled notations on the foot of that pro forma income by looking at the original, is that your handwriting in pencil?

A No.

Q Do you know whose handwriting it is?

A I sure don't.

Q Now, I show you the M-2 and ask you if you have ever seen that document before.

(Document handed to witness.)

M-2 is a list of adjustments with respect to the operations of the Faggen companies -- for the record.

MR. COOPER: When you say "have you ever seen that before", you mean not in this lawsuit; is that what you mean?

MR. POWERS: Anywhere.

A Yes, I remember seeing it some place.

Q And you saw it before the Faggen acquisition, didn't you?

A Before the Faggen -- no, I don't think so.

Q When did you see it?

A I don't know.

Q What does that document do or purport to say?

A It looks like a combined balance sheet of four corporations.

Q Have you analyzed that document before?

A No.

Q Does it purport to show adjusted earnings

A The third page indicates certain adjustments.

Q And what is the adjusted income shown at the foot of the page?

A I can't read all of this but it looks like it is -- all the details of it comes up to $571,476, according to the bottom figure.

Q Was that the adjusted earning figure for 1968, that you understood the Faggen companies had before the acquisition?

A It was somewhere in that neighborhood.

Q Was that the figure you were talking about with Harold Faggen as his adjusted earnings for 1968?

A The five hundred and some odd thousand dollars, yes.

Q $571,000?

A Yes. I don't remember the exact number.

Q But does the $571,000 stick in your mind as the figure you were discussing with Harold Faggen at the time?

MR. COOPER: He has already testified he doesn't recall the figure and you are saying does it stick in your mind.

MR. POWERS: I am trying to refresh his

MR. COOPER: He doesn't say he needs his recollection refreshed.

Q When you say the $500,000 area, I am trying to pin it down a little more -- was it $571,000?

A According to this, and according to that.

MR. COOPER: Let's identify for the record; "according to that" is Exhibit A to the complaint, or part of Exhibit M-1. Is that it?

Q Now, this copy document that I show you appears to be a copy of the third page of M-1, does it not?

A Yes.

Q Now, there is --

MR. COOPER: Wait, wait. One second.

Q There is a name at the top --

MR. COOPER: Hold it one second, Mr. Powers.

MR. POWERS: I am going to number this in a minute.

MR. COOPER: If you remember, you have made a comparison, asked him if it is the same.

Q Look at the --

MR. COOPER: I see figures on this one

MR. POWERS: I know that is what I am going to ask him about.

MR. COOPER: The point I am asking you, does it appear to be the same -- and we can both see that it is not the same.

MR. POWERS: Let me modify my question.

BY MR. POWERS:

Q Does it appear to be the same insofar as the typed material on the memo?

A Yes.

Q All right. Now, there are some hand-written items on the memo, aren't there?

A Yes.

MR. POWERS: Would you mark this M-3, Mr. Reporter.

(Document was marked Plaintiff's Exhibit M-3 for identification, as of this date.)

Q Now, look at M-3. First, it has the phrase "without investment income" in the copy, doesn't it?

A Yes.

Q Does this appear to be the same hand-

copy annexed to your notation?

MR. COOPER: Which notation is his notation?

MR. POWERS: This is annexed to it, here. (Indicating) The third page of M-1.

MR. COOPER: Yes, but Mr. --

Q Does the handwriting here appear to you to be the same as the penned notation on M-1?

A Appears to be the same, yes.

Q All right. Now, you see at the top of the page the name Faggen?

A Yes.

Q Is that your handwriting?

A No.

Q Do you know whose handwriting that is?

A No, I don't.

Q Would that be Russo's handwriting?

A I just don't know.

Q All right. Now, you see some figure totaled up at the bottom with some notations.

Are those figures in your handwriting?

MR. COOPER: You are referring now to M-3?

MR. POWERS: Yes.

MR. COOPER: All right.

Q Are they in your handwriting?

A The figures totaling 138 are in my handwriting.

Q All right, and are the figures per cash basis returns 346, 456, 436, 536, in your handwriting?

A No.

Q Do you know whose handwriting those are?

A No, I don't.

Q Now, this figure 154.9; is that in your handwriting?

A No.

Q Now, these four figures, 34, 34, 35, 35, 138, which you say are in your handwriting on M-3, do you recall what they denote?

A The personal income of Harold.

Q Which you were then adding into the adjustment for the four companies?

A No. I was just seeing what he had averaged over the past four years, taken out as side income.

Q I see. For adjustment purposes; right?

A No.

Q Why did you want to know?

A I just wanted to see what he was doing by himself.

Q Okay. Now, Mr. McIntyre, in looking

in your file?

A No, I don't.

Q But you can identify your handwriting on that document, can't you?

A Yes. Well, it is not - it is a copy of what my handwriting was, the original. I don't know where it is.

Q Well, I will look for it again, too, Mr. McIntyre. But we know that M-3 has your handwriting on it, don't we?

A Yes, but it doesn't appear to be from my files.

Q All right. And we further know that, in order for your handwriting to be on M-3 you had to have M-3 in your hands to write on it, don't we?

A No.

Q Well, how would you write on M-3 without having it in your hands?

A Because the one we are talking about here is a copy.

Q Yes?

A The original of this where my handwriting is is not there. Plus this has hole punches in it and that is not my method of filing.

Q Now, if we had the original of this,

though, with your handwriting on it, and you were looking at the original instead of a copy, it would mean that you had the original in your hands and you wrote something on it, wouldn't it?

A Right.

Q And the original that you had in your hands would say "without investment income", wouldn't it?

MR. COOPER: I will object to that. That is all speculation.

A I don't know without seeing it.

Q Okay.

Now, I show you another memo from the pad of Richard K. McIntyre.

MR. POWERS: Which we will mark as M-4.

(Memo from the pad of Richard K. McIntyre, as above referred to, was marked Plaintiff's Exhibit M-4 for identification, as of this date.)

Q Now, I show you M-4, Mr. McIntyre; is that a memo in your handwriting?

A Most of it is.

Q Does looking at the memo refresh your recollection as to where it was?

A But one time it was in my file, but there's been --

Q In your file at Titan?

A Yes.

Q And does looking at that from your file at Titan refresh your recollection as to where M-1 was?

A At one time, the top of M-1, first page and second page, certainly were in my files. They are in my writing, handwriting.

Q What about the third page?

A I don't know when that got in there.

Q Do you have any reason to believe that the third page wasn't in your file and was just put in there?

A Well, I see notation on this other memo that is not in my handwriting, so somebody has -- somebody has written on this.

Q Why don't you tell me what the M-4 memo in your handwriting says and then, as best you can, translate what the material not in your handwriting says.

What does M-4 deal with?

A Items to talk to Harold about.

Q Now, from looking at that, can you fix a date for when you wrote that memo?

A It would be late 1968 or early 1969.

Q Would it be before the closing or after the closing?

A I don't know.

Q All right. Now, looking at M-1 again, do those notations in your handwriting on Page 1 appear to have been made before the closing or after the closing?

A I don't know. When they were -- it would be whenever I got a hold of the tax returns which would have been --

Q Before the closing?

A Just prior to the closing or a little bit after.

Q And the second page of M-1, can you fix the date when you wrote those notations down?

A No.

Q Would you consider that they were before the closing, because they are all balance sheet concepts, or after the closing?

A They could have been either time.

Q But you know they were in 1968 or thereabouts; right?

A Or early 1969.

Q So we fix the date that Pages 1 and 2 of M-1 were early 1968?

A Late 1968.

A Late 1968.

Q Late 1968 or early 1969?

A Right.

Q And how would you fix Page 3 in time of that M-1?

MR. COOPER: He has already said that he's never seen M-3.

MR. POWERS: Never seen it?

MR. COOPER: He said he doesn't recall that being in his files.

Q Have you ever seen the third page of M-3 before today?

A Yes.

Q Where did you see it?

A I have seen it as exhibits in various documents relating to this case. And I know I saw it some time --

Q Late 1968?

A Yes, or early 1969.

Q All right.

Now, can you fix a date for when you saw M-4?

A Again, the same time frame, late 1968 or early 1969.

Q Now, you were going to go on and translate

for me what M-4 deals with.

A It is a question of accumulated earnings and when they were earned, and the accounting and who does it, the audit,and by PM, which is Peat, Marwick, and Arthur Andersen & Company is okay, safe deposit box.

Q What does it say about Arthur Andersen & Company being okay?

A That is what it says; AA & Company is okay.

Q Peat, Marwick were your auditors, Titan auditors, at the time of the Faggen deal?

A Right.

Q Do you recall a conversation with Faggen where he said Peat, Marwick were competitors of his?

A Yes.

Q And do you recall his saying in that conversation that he didn't want them coming in to do any auditing?

A Yes.

Q And does that notation deal with Peat, Marwick being unacceptable to him, but Arthur Andersen being acceptable to him?

A Yes.

Q And did you use Arthur Andersen before the acquisition?

Plaintiff's Exhibit 27

A No.

Q Did you use him afterwards?

A No.

Q What is the next item in the memo?

A Safe deposit box, brokers.

Q Excuse me, sir.

A Brokers. And Faggen has a couple, but some of this is not in my handwriting; the majority of it is not.

Q What does it say about safe deposit boxes, anything?

A No -- probably just asked him where it was and who the brokers were.

Q Anything else in your handwriting?

A Ken Hoffman's name is in my handwriting.

Q Who is he?

A He was the partner with Peat, Marwick in charge of their audit; but this again is not in my handwriting, where the words "partner" and "Peat, Marwick" are.

Q Is that Russo's handwriting?

A I don't know whose it is. In fact -- there is only the safe deposit box, brokers, the "no" and Ken Hoffman are the only things that are in my handwriting.

The rest of it is in someone else's.

Q Can you translate what the someone else's handwriting says?

A It is a question of accumulated earnings and when they were earned; somebody wrote that in its entirety.

Q That was somebody working for you on the deal?

A I have to assume that it was. I don't recognize the handwriting.

Q You weren't doing the original work yourself, were you?

A No.

Q Who was in charge of it, Russo?

A Russo, and Sokolow and Cannon; they were all working on it.

Q And Russo was the chief accounting executive in charge of Sokolow, Cannon and the others, wasn't he?

A Yes.

Q And Russo was responsible for gathering the data together and making reports to you if they found any problems; is that right?

A Yes.

Q Now, can you translate the other notations

on there for me?

A Accounting, who does it, and the answer appears to have been Joe Levine, Rose Dogan.

Q Anything else you can translate on there for me?

A The audit, with PM & M, no.

MR. COOPER: Any writing on the back of that, Mr. Powers?

MR. POWERS: Oh, yes, there is some writing.

Q Is that in your handwriting?

A I can't tell about the word "hotels", but the director of -- division controller John Young is not in my handwriting.

Q Who is he?

A He was the man in charge of the hotel division, audit and work.

Q In Titan?

A Yes.

Q Did he have anything to do with the Faggen acquisition?

A He may have done some work down there during the audit period, but that is all.

A At 529 Fifth.

Q How many times did you go into Harold Faggen's premises in late 1968, if ever?

A Oh, I'd say late 1968 or early 1969 I was in there two, perhaps three times, mostly.

Q How long was each visit?

A Half an hour.

Q Did you look at any documents when you went in?

A Not that I remember.

Q Now, Mr. McIntyre, I show you M-2 again, this list of adjustments, showing earnings on the Faggen companies of $571,000 after the adjustments.

Can you fix a date when you saw that?

(Document handed to witness.)

A No, I couldn't.

Q Would you say late 1968 or early 1969 on that, too?

A No, I don't know.

Q You don't know when you saw that?

A No.

Q Do you know it was in your files,

when I first saw this.

Q Okay. Thank you. Now, I show you a memo.

MR. POWERS: Which we will mark M-5.

(Memo from J. V. Russo to J. Spence and Mr. McIntyre was marked Plaintiff's Exhibit M-5 for identification, as of this date.)

Q I ask you if you have seen that memo before.

(Document handed to witness.)

A Yes.

Q It shows that it was sent by J. V. Russo, doesn't it?

A Right.

Q And it was a report sent to J. Spenc and to you, Mr. McIntyre; is that right?

A Right.

Q And does the checkmark above your name indicate that this is the copy that went to you?

A Yes.

Q Was that the way of identifying memos that were circulating in Titan, that when they went to several people there'd be a checkmark on the one

A Yes.

Q And what does that memo deal with?

A The journal entries, on the liquidation of the Faggen companies; the transfer of securities; and the handling of the tax and -- book entries on the securities.

Q Does this show the instructions that Russo sent out as to the handling of those?

A Yes.

Q And Russo was giving you a copy of the memo?

A Yes.

Q So you would know what was going on; is that right?

A Right.

Q Now, does this memo appear to be from your file?

A Yes.

Q Thank you.

A Let me see the writing on the bottom of this.

Q Sure. What does that writing deal with? Maybe you can translate it for me.

MR. COOPER: First of all, is it in

A The bottom part is not my handwriting. I don't -- I can't read some of it. The difference between 196,689 and 265.

On the schedule of allocation of costs over equity, attached to the analysis of Faggen entries, represents the U. S. Treasury notes not transferred.

And the other looks like plan of liquidation, Joe Levine, controller of Faggen; Robinson and Silverman, and Louis Caster drew up agreement, or drew up agreement. I can't tell.

Q Do you know what that note deals with?

A Yes, liquidation of the companies, and the filing with the Government of the notice of liquidation.

Q And putting them on an accrual basis; right?

A For opening entry purposes. But that is for Titan, where it is liquidated, the old companies.

Q Now, Mr. McIntyre, did you have anything to do with respect to the pricing of the Faggen transaction to Titan?

A No.

Q You didn't play any part in that at all, did you?

Q Were you told about the pricing that went into the transaction?

A How do you mean "told"?

Q Well, did you learn anything about how the $5,500,000 in convertible notes was arrived at, in that transaction?

A Subsequently I did. But --

Q Did you know anything about it before, before the transaction closed?

A No, I was not privy to any of the --

Q Negotiations?

A Negotiations.

Q And Tony Frank didn't tell you anything about the pricing structure, did he?

A No.

Q And did Kaufman tell you anything about pricing?

A No.

Q Did Ben Robinson?

A Not to my knowledge.

Q Did you tell Russo anything about pricing structure on the deal?

A Not that I know of.

was Ben Robinson's deal?

A No.

Q Were you under the impression that it wasn't your job to look into the pricing?

A Yes.

Q And were you under the impression that it wasn't up to you to check into the veracity of that $571,000 earnings figure?

A Say that again.

Q Were you told to check into the veracity of that $571,000 adjusted earnings figure?

A Yes.

Q By whom?

A Tony Frank.

Q What did he tell you?

A He asked me to check out, you know, what the adjustments were and see how they came up with the 571.

Q Did you get anything in writing with respect to those adjustments?

A No.

Q How did you check them out?

A Talked to Harold about it.

talk to Harold?

A Not that I remember.

Q Russo didn't do anything on that subject, did he?

A Not to my knowledge.

Q Did you accept what Harold told you?

A Yes.

Q What reason did you have in not requesting Harold to give you anything in writing on the subject?

A I knew what the contracts called for as far as salaries were concerned.

Q Right.

A So that that adjustment would be fairly easy to come up with. And funding of the pension, there wasn't any problem about that because Harold said we were overfunded and have to pay --

Q You didn't look into what the funding was for prior years, did you?

A No, I did not.

Q And you didn't look as to what the salaries were for prior years, did you?

A No, I just looked at last year's tax return.

Q And what other reason did you not request

A The taxes I can determine from the tax return, the T & E.

Q You took his word for the T & E?

A There was reasonable substance to take his word on the T & E.

Q And did you take his word on the other items, too?

A Yes.

Q Basically you trusted Harold Faggen, didn't you?

A Yes.

Q Harold was a CPA at th[illegible]e, wasn't he?

A I think so.

Q You knew he was a CPA, didn't you?

A I knew at one time he had been. I don't know whether he kept active.

Q Did you know Harold was a lawyer, too?

A Yes.

Q You had heard that?

A Yes, I heard that.

Q And you knew that at the time?

A I heard that he was. I hadn't seen his certificate.

Q And you knew he was a good friend of

Ben Robinson's, too, didn't you?

A I didn't know how friendly they were. I knew they were acquaintances.

Q You took him to be an honest and truthful man, didn't you?

A Yes.

Q And you accepted what he told you orally; is that right?

A Yes.

Q Did Tony Frank accept what Faggen told him orally?

MR. COOPER: I object to that.

A I don't know.

Q Now, did Tony Frank tell you that this deal was based on Harold having adjusted earnings of about $570,000?

A I don't know who told me that, if anyone.

Q But you knew the fact?

A I knew that they were talking about earnings in excess of $550,000, in the general area.

Q Right. And you knew that is what Titan was looking for in the deal; is that right?

A That's right.

Q Now, do you know of any other working

papers or notations that you made, put in your files at Titan, in connection with the Faggen acquisition, other than what I have shown you?

A Well, --

Q Do you recall anything else in a written form?

A Not without looking in my files. It's been a number of years.

Q Nothing else comes to mind, except what I have shown you so far, these first five exhibits; is that correct?

A There had to be some otherpapers in the files. It wasn't that skimpy, I'm sure, but what they were, whether they were memos or work papers or what, I am -- I don't remember now.

Q Now, do you remember discussing an accrued vacation pay item with Faggen just before the closing?

A Yes.

Q Do you recall the magnitude of that item?

A Not right offhand, I don't.

Q If I told you it was about $59,000 would that seem about right?

A That would be ball park.

Q It was a good sized item, though, wasn't it?

A Yes.

Q Do you recall discussing that item with Faggen before the closing?

A Not until the day of the closing, as I remember it.

Q It just popped up on that day, didn't it?

A Yes.

Q It showed up from your review of the Faggen balance sheet, didn't it?

A Yes.

Q What it was was in effect a liability for accrued vacation pay, that hadn't been disclosed until the day of the closing; is that right?

A Well, we didn't get the balance sheets until just a few days before the closing.

Q All right. Now --

A I don't think it was a matter of disclosure.

Q I'd like you to explain to me what accrued vacation pay liability means on the balance sheet.

A It means you owe for some employees for vacation.

Q And if it's been accrued over more than one year, it represents a charge against income for each year that it's been accrued, doesn't it?

A Yes.

Q In other words, vacation pay is just like any other pay? It's a charge against income; right?

A Yes.

Q It is one of the deductions from gross revenues used to reach income, isn't it?

A Yes.

Q All right. Now, did you ask Faggen whether he had made an adjustment downward in his four years earnings figure to reflect this vacation pay accrual?

A Not to my recollection.

Q Did you make any attempt to adjust the figures downward based on that accrual?

A No.

Q Did those vacation pay accruals show up on any of the adjustments you saw before the deal was closed?

A I just don't have any recollection about it until right before the closing.

Q Before you left Titan, did you have any suspicion that Mr. Faggen had misled Titan on his adjusted earnings figures?

A No.

A No.

Q Did anybody in Titan ever speak to you about their suspicion of Faggen having misled them on his adjustments figures?

A No, not that I recollect.

Q And when did you leave?

A In July of 1969.

Q Did anyone from Titan ever call you after July of 1969, anyone in the company, to indicate they were suspicious about Faggen's adjusted earnings figure?

A Not that I remember.

Q You never had any inquiry on that subject until Mr. Faggen himself called you to appear as a witness in this lawsuit; is that correct?

A That is my recollection, yes.

Q Did you hear any rumors, or did knowledge come to you, other than through an employee of Titan, as to their being suspicious of Faggen during this period following the acquisition?

A I had heard about the possible lawsuit.

Q When did you hear about that?

A I think I read it in the Wall Street Journal one day.

Plaintiff's Exhibit 27

Q Then you read about the lawsuit; not the possible lawsuit, right?

A Either that or in the proxy statements that I get.

Q And that is the first you read about it; is that right?

A I think it was.

Q And you never heard a word on that subject before reading about it in the newspapers or the proxy statement; is that right?

A I think so.

Q Now, to your knowledge, did Titan rely on this pro forma net income presentation, which is the third page of McIntyre-1?

(Document handed to witness.)

A How do you mean "rely"?

Q Did reading and understanding play an important part in Titan's decision to buy the Faggen companies?

MR. COOPER: I am going to object to that.

The witness has already testified that

calls for a legal conclusion.

MR. POWERS: All right, let me ask the question to you another way.

Q Now, Tony Frank saw this memo, didn't he?

A I have to assume that he did.

Q Is that Tony Frank's handwriting on there, "includes investment income"?

A I don't know. I don't remember Mr. Frank's handwriting.

Q Now, did Tony Frank discuss that memo with you?

A I can't remember any detail discussions.

Q Well, did he discuss the basic import of it, the $571,000 figure?

A Yes.

Q And did Tony Frank accept that figure as being real.

MR. COOPER: I will object to his testifying as to what Tony Frank accepted.

Q Did Tony Frank indicate to you that he didn't believe the figure?

MR. COOPER: I will object to that,

about the reality of the figure of $571,000?

A My recollection is that, you know, check this out and see if it is reasonable.

Q So, so far as you know, Tony Frank accepted the figure after you checked it out?

MR. COOPER: He didn't say that. Just a moment. He didn't --

Q At any time did Tony Frank say to you that he didn't accept that figure?

A Not to my knowledge.

Q Did you accept the figure as reasonable?

A After my discussion with Faggen it seemed to be in the ballpark, yes.

Q Now, after the acquisition did Faggen continue to resist having Peat, Marwick come in to audit his books?

A We never discussed it after that.

Q From then on, you let his internal people do it, and Peat, Marwick never went in there; is that correct?

A Well, we had our people to do a lot of the work.

Q Yes, but the chain of command was Levine would prepare it internally and then supply it to

you would pass on it last; is that correct?

A Well, we would go back and check all the figures through Warren & Company, who were in there working, too, as I remember.

Q All right, and Peat, Marwick didn't go in there at all, did they?

A No.

Q And there was never any attempt to audit earnings for the period before the cutoff date for the acquisition; is that right?

A Not while I was there.

Q Now, did you report some conclusions on the contract documents and the financial statements of Joseph Warren to the executive committee of Titan, just before the acquisition?

MR. COOPER: Can I hear that question read back, please?

(The pending question was read back by the reporter.)

A Nothing on the contract documents that I remember.

Q What did you report on the financial statements?

else.

Q Did you talk about the discussion you had had with Faggen on his adjustments?

A Not that I remember.

Q Now, what discussions did you have with Tony Frank at or about this time, on the subject of Faggen's adjusted earnings?

A I related to him the pension adjustments; salary adjustments; the taxes; and that there was a T & E adjustment of some amount which would be impossible to determine to a finite degree.

Q What else did you tell him?

A Checked the tax returns and that other than that, and -- outside of accounting income when it all added up, it came within the ballpartk and seemed to me to be what the projections were, and pro forma --

Q Did you make any review of the items on Exhibit M-2, and attempt to reconcile them with what Faggen had told you?

(Document handed to witness.)

A No.

Q Did you accept these as pretty much carrying out what Faggen had told you?

He's already testified with respect to that, Mr. Powers.

Q Well, do you recall going over these specific adjustments with Faggen?

A No.

Q Do you recall discussing with Faggen whether these were the adjustments he was referring to in his oral conversations with you?

A No. I don't know when I even got -- saw this for the first time. And --

Q I asked you to look at this document, and my question to you, as you read it, is: Do these seem to be the adjustments that you talked about with Faggen? Starting as per tax return 288499.

A No. Some of them are; some of them are not.

Q Did Faggen identify for you any differences between this and the adjustments he was talking about?

A I don't think I had this document at the time when we were in negotiations or prior to closing. I just don't remember when I first saw this document.

MR. POWERS: Let's take a break.

(Short recess taken.)

Q Now, taking you back to the fall of 1968:

with Tony Frank on the Faggen acquisition? Were there any other discussions you had with him that you haven't told me about?

A Not that I can remember.

Q So your testimony today covers your best recollection of every word you and Tony exchanged in substance on the Faggen acquisition; is that right?

MR. COOPER: Now, you say "every word" and "substance". He hasn't testified to --

MR. POWERS: I said "best recollection", what they were saying to each other. I know it is a few years back.

Q I just want to make sure we have covered every conversation to your fullest recollection.

Now, have we covered every conversation?

A To the best of my recollection right now.

Q Now, you have testified that you had no conversation with Kaufman on the subject of the Faggen acquisition; is that right?

A I believe that is correct.

Q So you didn't talk to Kaufman at all on that acquisition?

A Not that I remember.

in any respect in the fall of 1968?

A Not that I can remember.

Q Did you have any discussion with Ben Robinson on Faggen and his companies?

A Yes.

Q When were those discussions, would you fix a time frame?

A Oh, well, it would have been before and after the board meeting of October, and up to the time of the closing.

Q All right. Let's try to find out what transpired in those conversations with Robinson in a chronological sequence, to the best of your ability.

Now, what did you talk about with him in the conversation before the board meeting of October 9?

A Something around the fact that Kaufman was supposed to come in and talk to Harold about the possibility of buying his companies.

Q Well, that was in or about August or September, wasn't it?

A Yes, it would be before --

Q The heavy negotiations started?

Q Did Robinson say anything else to you on that subject?

A No.

Q Did you talk about the earnings of the Faggen companies?

A We didn't know what they were at that point or, at least I didn't.

Q Anything else Robinson said to you on that subject?

A Not that I remember.

Q All right. Now, when did you talk about it next with Robinson?

A Just before the board meeting.

Q And what did he say to you at that meeting?

A He told me what the price looked like it was going to be, and --

Q What did he tell you on that subject?

A And it looked like it was going to be five million -- the value one time was $5,750,000 and we got $5,500,000, and it would be some convertible stuff rather than stock.

Q Did he tell you why it was cut from $5,750,000 to $5,500,000?

A No.

Q What did you say?

A I said, fine, if it produced income.

Q Let's go.

Did he say anything else to you in that conversation?

A Not that I remember.

Q Now, when was the next time you talked to Robinson about the deal?

A Oh, several times between then and when the deal was closed, because his firm was drafting the documents for it, and I wanted to see what some of the substance was and what the timing was going to be.

Q What did he tell you during that period, if anything?

A Nothing except for -- to keep me abreast of what the documents were developing into.

Q Did you tell him anything about what you were doing?

A Well, I wasn't doing too much at that point.

Q Did you tell him anything?

A I don't remember -- I don't remember I told him anything of substance.

Harold's adjustments to reach the $571,000 figure?

A I may have.

Q Do you recall what you told him about it?

A If I did say anything, probably the same thing I told Tony Frank, you know.

Q They seemed to be there?

A Yes.

Q Anything else that you spoke about with him on the Faggen transaction?

A No. Not that I can remember now.

Q Do you remember any other conversations with Robinson on the Faggen transaction?

A No I -- that sums it up.

Q Did you talk to anyone else at Titan about the Faggen transactions?

A Certainly I talked to Russo.

Q What did you tell Russo?

A That we were -- it looks like we are going to acquire the Faggen companies. And we discussed the handling of the accounting, and the taxes and liquidation and the timing. All the usual things you go through.

Q Did you discuss the $571,000 of adjusted earnings with him?

A I may have. But I don't know.

Q And did you have any discussion with anyone else in Titan before the Faggen acquisitions?

A Frank, Russo and members of the accounting staff, you know, they were in on the tax discussions, you know.

Q No one else?

A That I can remember. I may have discussed in general with some of the other officers of the corporation.

Q Did you discuss it with any of the directors?

A I don't think I have any recollection of that.

Q And do you recall any discussions with Faggen other than the ones you have testified to?

A No, I don't.

Q Is the record complete so far as you can recall on everything you said to Faggen, and Faggen said to you, during this period?

A As far as my recollection goes.

Q You understand we are trying to get at the substance of what was said?

A Yes.

Q I didn't expect you to remember every word. But do I have the substance on the record here?

A I think so.

Q You haven't left anything out about what Faggen said to you, have you?

A Not that I recall, no.

Q And you haven't left anything out of what you said to Faggen, have you?

A Nothing of substance that I can remember.

Q Now, do you recall shortly after the acquisition hearing that Sol Taber had gone off with a large group of the Faggen companies' clients?

A The name doesn't sound familiar.

Q Do you recall a dispute with Leonard Townsend right after the acquisition as to their taking away business?

A Yes, there was something that came up, but I was not in on that side of it.

Q Do you know anything about that dispute?

A Not really, no.

Q Now, when you were talking to Faggen, did you ask him about the growth of his business in terms of additional clients?

A I may have.

Q Do you recall what he told you about it?

A No, I don't.

Plaintiff's Exhibit 27

Q I show you Exhibit B to the memo describing the company, which is Exhibit A to the complaint. It is titled Analysis of Clients.

Do you recall seeing that back in the fall of 1968?

A No, I don't.

Q Do you recall any discussion on that subject in the fall of 1968?

A No.

Q In your discussions with Faggen, did he tell you that he had lost any clients in 1968?

A I don't remember it being discussed.

Q You don't remember his mentioning anything about losing clients, do you?

A No.

Q In your discussions with Faggen, did he talk about his computer skills and capacity?

A Yes.

Q What did he tell you on that subject?

A He was telling me what equipment he had, and what he would like to add.

Q Did he tell you.

A If he had the ability to do it.

Q Excuse me?

A If he had the ability to do it.

Q You mean the money to get the equipment?

A Yes.

Q What did he tell you about the professional ability in his firm?

A I think he felt that it was adequate to good.

Q Did he tell you that they had a program for a completely automated union office?

A I don't remember that.

Q Did he tell you that he had a very substantial client and he expected the fees from this client to pay all the development costs for that program?

A I don't remember that.

Q I show it to you in the memo, which is Exhibit A to the complaint, and ask you if Faggen's statements in there refresh your recollection as to whether you talked about it with him.

A Where did this come from?

Q This is the memo to which Exhibit A that was in your files is annexed. This is the written form of it. You see, that is Exhibit A to the complaint.

If you want to see a better copy of it, Mr. McIntyre, I will give it to you. Here is a better copy, Mr. McIntyre.

Why don't you read that whole thing.

(Pause)

MR. POWERS: Let the record show the witness is examining the confidential memorandum which is Exhibit A to the complaint.

(Pause)

Q Have you read this?

A Yes.

MR. COOPER: There is a pending question, Mr. Powers.

Q Do you recall --

MR. COOPER: Mr. Powers, --

MR. POWERS: I remember the question. I will ask it again.

MR. COOPER: All right.

MR. POWERS: All right, read it from the record.

(A portion of the record was read back by the reporter.)

Q Now, does that refresh your recollection as to whether you talked about Faggen's computer capacity and his program at that point?

A Yes, we did discuss it.

Q All right, now, in substance, did Faggen

tell you that they had programmed a completely automated union office?

A I don't remember that far.

Q Did he tell you that they had a very substantial client and that they expected the fees from his client to be sufficient to pay all development costs?

A I don't remember that.

Q All right. What did he tell you on the subject of his computer capacity?

A He was telling me that he had a 360-20 and I am not that familiar with computers, so that it sounded impressive, but --

Q Did he tell you that he was in the process of programming completely automated pension plan calculations?

A Not that I remember.

Q Did he talk about providing those services to stock brokers, accountants and lawyers?

A I just can't remember that we discussed that.

Q All right. Now, did he tell you who had founded his business?

A Not that I remember.

Q Did he ever mention the name David Ramsey to you?

A Not that I recall.

Q Were you led to believe that this business has been founded solely by Harold Faggen?

A I didn't even ask for where he started. They were just there.

Q Now, do you recall anything else about these conversations with Faggen prior to the acquisition?

A That he hoped to get some additional floor space, I remember that, and that refreshed my memory on that.

Q Did he lead you to believe that the expansion of the computer business was a big thing with him?

MR. COOPER: He hasn't testified that there was any discussion about the expansion.

Q Was getting another floor in order to expand the computer business?

A I don't remember what the purpose was, whether it was -- to put in another computer or what --

Q Were you left with the impression that the business was flourishing and growing at the time?

A I felt that it was very good business.

Q And did you feel that he was getting new clients all the time?

A I don't know whether we discussed that aspect at all.

Q Do you recall any other discussions with Faggen at this time?

A No, I don't.

Q And you have told me about every discussion with Faggen you can recall before the deal was closed; is that right?

A To the best of my knowledge.

Q There is nothing else that you can remember his talking to you about before the deal was closed, in connection with the Faggen companies or the business or their finances, or their earnings, or their adjustments; is that right?

A To the best of my knowledge, yes.

Q And you have no written memos, notations, diary entries, accounting statements or anything else of that nature, in your possession relating to the Faggen companies; is that right?

A No, I turned them all over to our successor.

Q You don't have a single piece of paper with any writing on it by you or your successors or anyone else in Titan with respect to the Faggen acquisitions; is that right?

MR. COOPER: Will you repeat that question?

Q You don't have a single piece of paper in

your possession, that you wrote on, or that you obtained from any of your successors in Titan or from your subordinates or from your superior officers, that in any way relates to the Faggen acquisition?

A Outside of what I have gotten copies of in this lawsuit, I don't know of anything.

Q You didn't bring any papers to the lawsuit or to Mr. Cooper, did you?

A N!.

Q You didn't deliver a single writing to Mr. Cooper, did you?

A Not from my -- of my files.

Q What writings did you deliver to him, if any?

A I brought him back the affidavit.

Q Nothing else?

A No.

Q What I am trying to determine is whether you have any information that is even remotely connected with the issues in this case, other than what Mr. Cooper gave you.

A No, I don't.

Q You don't have any such material of your own?

A No.

Q Now, did you have any conversations with respect to the Faggen acquisition, with Michael Rosen?

A Yes.

Q What were those conversations about?

A Primarily the contract that was being drafted.

Q He was drafting a contract for Robinson's law firm; right?

A Yes.

Q Did you talk about Faggen's adjusted earnings with Michael Rosen?

A No, I had no --

Q No reason to?

A No reason.

Q So far as you know, did Rosen know anything about those adjusted earnings?

A I -- if he does, I am --

Q As far as you know, did Rosen know anything about this pro forma income statement we have been talking about?

A Not as far as I know.

Q Did anyone in Robinson's firm, besides Robinson and Rosen, work on the Faggen deal? Did you deal with any other lawyer?

A I think Allen Aronsohn.

Q Was he in on any drafting of it with the draftsmen?

A I am sure it was from the tax standpoint, because he is a very good tax attorney.

Q And was he acting for Faggen at the time?

A He was acting for Titan.

Q Well, who had tax problems in the deal?

A Well, we were trying to make it a tax free exchange.

Q For Faggen?

A For Faggen, yes.

Q So Allen Aronsohn reviewed the papers to make sure that the transaction suited Faggen's need; right?

MR. COOPER: You are asking him --

A This was part of the deal, no, there would be a tax free --

MR. COOPER: I object to that. You are asking the witness to testify as to what a lawyer was doing, and he doesn't have any idea of what he was doing.

MR. POWERS: Why don't you let the witness say that instead of you.

Plaintiff's Exhibit 27

MR. COOPER: He said he didn't know what he was doing and you are making a suggestion that he was acting for Faggen. He testifies that he was acting for Titan, and you are suggesting, and the witness, not being skilled in this thing, probably responds to your question in order to help you.

I think it is unfair to ask the witness to do that.

MR. POWERS: Are you finished with your oration, my good friend?

MR. COOPER: Almost.

BY MR. POWERS:

Q Now, Mr. McIntyre, do you recall discussing the Faggen transaction with Si Sheib, Simon Sheib?

A I met Si over at Robinson's office once or twice during the negotiations, but -- I don't remember discussing it with him.

Q Did you discuss the pro forma earnings of Faggen in Sheib's presence?

A Not that I remember.

Q Did Sheib know about the pro forma earnings presentations to Titan, as reflected in anything you heard Sheib say at the meetings?

MR. COOPER: I will object to the form of that question.

Q Do you recall Sheib saying anything in meetings about the pro forma earnings statements of Faggen?

A No.

Q Was that subject discussed at all in your presence by the lawyers?

A Not that I remember.

Q You don't recall a word about this Exhibit A to the complaint being discussed by the lawyers, do you, in your presence?

A No, I don't.

Q And were there any negotiations on it, as to whether it should be in the contract or not in the contract?

A I don't know, because I wasn't in negotiations.

Q But in the negotiations where you were present or in the meetings where you were present during this period, do you recall any discussion at all about Exhibit A to the complaint?

A No.

Q Now, Mr. McIntyre, was there anyone else involved in the Faggen transaction that you recall havin g discussions with at the time this was entered into?

Plaintiff's Exhibit 27

We have talked about Kaufman; you said you didn't talk to him. We have talked about Russo and your subordinates; we have talked about Tony Frank; we have talked about Faggen, Robinson, Michael Rosen, Si Sheib, and you have mentioned ARonsohn looking into the tax aspects of it.

Did you discuss any of the business aspects of it with Aronsohn?

A No.

Q Did you discuss the earnings with Aronsohn?

A Not that I remember.

Q Do you recall any discussion on the pro forma income statement with Aronsohn?

A No.

Q All right. Now, I have ticked off the people you recall talking to or not talking to.

Is there anybody else you recall talking with, at that time?

A Not specifically, I can't.

Q Do you talk to Joe Warren?

A No.

Q Did you have any conversations with Joe Levine?

A I don't think I did. I think Russo handled

anything there.

Q Did you have any discussions with any of Faggen's employees -- Stewart?

A No.

Q Taber?

A No.

Q Rose Dogan?

A No.

Q So have you told me about every person that you can recall discussing the Faggen transaction with at the time it was entered into?

A To the best of my knowledge, yes.

Q You have told me about every conversation you can recall with each of those people; is that right?

A To the best of my recollection.

Q Do you want to go over any of them again to make sure that we haven't omitted anything? We have talked about all your conversations with Faggen; is that right?

A Right.

Q And all your conversations with Kaufman, which you say were almost no conversations?

A Right.

Q And all your conversations with Ben

Plaintiff's Exhibit 27

Robinson; is that right?

A Yes.

Q We have covered all your conversations with Tony Frank; is that right?

A Yes.

Q And all your conversations with Aronsohn and Rosen?

A Right.

Q Did you have any conversations with Rose Dogan?

A I don't think I ever met her.

Q Are there any other facts relating to the Faggen acquisition that have come to your mind as we have been going over this in great detail and your notations that I haven't specifically asked you about, that come to mind now that you refresh your recollection?

A I can't think of any.

Q Is there anything about the transaction or your investigation of it that I haven't asked you about?

A No, I think you have been pretty thorough.

Q You don't feel we have left anything out, do you?

A No.

Q And have you tried to recall every single conversation on the subject you had with anybody?

A Yes, I have.

Q And there are no written materials at all in your possession, are there?

A No.

MR. POWERS: I think we are finished, Mr. McIntyre, and I appreciate your cooperation and I appreciate your counsel's cooperation. He is one of the few lawyers in New York whom I almost never fight with at depositions, because he makes sincere objections and doesn't try to obstruct things as we go through things.

(Whereupon, at 12:05 p. m. the examination was adjourned.)

* * * * *

Richard K. McIntyre

RICHARD K. McINTYRE

Subscribed and sworn to before me

this 8th day of January 1974.

Mrs. Gloria S. Law

Notary Public, Georgia, State at Large

My Commission Expires June 28, 1976

I N D E X

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E X H I B I T S

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DEFENDANT'S EXHIBIT A--MINUTES OF 1970 TITAN BOARD MEETING

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EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN.

DRAFT

Continuation of the Annual Meeting of the Board of Directors held at the office of the corporation, 529 Fifth Avenue, New York, N.Y., Wednesday, July 15, 1970, at 2:30 P.M.

PRESENT:
Samuel N. Bergman
A. Robert Doll
Aron Drost
George F. Duthie
Harold Faggen
Alfred M. Frager
Robert J. Frankel
Edmund M. Kaufman
Benjamin M. Robinson
Ronald Rosenfeld
John C. Spence
Benjamin Weinstein

Also present were Jack L. Farley, John J.Cost, and Lester A. Kaufman.

Mr. Edmund Kaufman acted as Chairman of the meeting and Lester Kaufman as Secretary thereof.

The Secretary presented to the meeting a copy of the notice thereof that had been sent through the mails, or delivered by hand, to these directors together with an affidavit relating thereto. The Chairman directed that said notice and affidavit be filed with the minutes of the meeting.

Mr. Kaufman convened the meeting and distributed a memo entitled "Status Report for Presentation to Board Meeting, July 15, 1970" (copy attached). This report was submitted to the Board by its officers, Edmund M. Kaufman, Chairman, John C. Spence, President, Benjamin Weinstein, Executive Vice President-Finance/Operations, and Lester A. Kaufman, Vice President and Secretary.

The Chairman stated that it was not necessary to read the memo at this sitting, that he would talk on its contents, and commenced to focus on the historical aspects of the organization over the past three years, outlining the following areas: abandonment of properties, in specific, Marott Hotel, Colonial Motor Inn, and the Parliament House, which he indicated that $4/5,000,000 had

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

subsequently had to be abandoned.

The Chairman highlighted the company's involvement in the auto rental business and the underwriting insurance business (Compass Insurance) in 1967 which, combined, produced a net loss of approximately $1,000,000 in cash. He then indicated that just prior to his administration, the company entered into an acquisition of the Faggen companies which resulted in $5,500,000 of debt which he did not think the Faggen Companies would be able to make enough profit to pay the interest on. He qualified this statement by stating that the Faggen organizations' decline in earnings was attributed to decisions to invest in that organization's future in the data processing area.

The Chairman then traced his own history in the organization stating that he believed that the role that was designated for him, both prior to and after his chairmanship, was in the acquisition area. He then evaluated the acquisitions that have been made since June, 1969. He considered all of them in a favorable light, with the exception of the Harvey Insurance Agency. He indicated that the earnings of Titan for the calendar year 1970 should be better than those for 1969, even excluding Yosemite, and he felt that the calendar year 1971 would be even better. He then outlined the current cash crisis that the corporation was in, indicating that the bulk of the cash that the corporation has generated in the previous 18 months has been invested in four land development programs, Long Island, Yosemite, Shasta and West Palm Beach. He further stated that each of these programs has a profit potential. He also outlined the areas where the corporation might be able to receive additional financing:

1) The sale of the Golden Triangle, which would generate $2,500,000,

2) The sale of the Blue Cross, which would generate $670,000,

3) The sale of the Grosvenor House, which would generate $610,000.

Defendant's Exhibit A

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EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

TITAN GROUP, INC.

Status Report for Presentation to
Board Meeting, July 15, 1970

In light of the critical state of facts existing at the current time and in order better to inform members of the Board of Directors as to management's thinking and proposals, management hereby submits the following:

1. History and current position. The company historically has been primarily an owner-operator of developed income-producing properties as well as an operator of an insurance agency and brokerage business. The company suffered significant financial costs and losses in connection with certain of its properties (i.e., Marott Hotel in Indianapolis, the Colonial Motor Inn in Binghamton, Parliament Inn in Orlando), abortive ventures in steel importing, car rental and insurance underwriting. Commencing in the latter part of 1968, the company expanded its operations by acquisition of a group of actuarial companies, several insurance agencies, and a number of housing and construction companies. During the last six months of 1968, the company also expanded its previously small involvement in land development by making investments in several additional development projects (Madera County-Yosemite, Shasta

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

County, West Palm Beach-Shadow Lakes). All of the acquisitions, with the exception of the actuarial companies, were accomplished by the issuance of common stock.

All of the acquired companies have been and continue to be profitable with the exception of the Harvey Insurance Agency, which, together with Titan's previously existing Los Angeles agency, has been suffering small losses. Many of the previously owned real properties have been disposed of and the balance are generally earning a substantial amount and are throwing off a cash flow sufficient to amortize all mortgage indebtedness and to provide some cash to cover corporate overhead.

Titan's current investment primarily in four development projects total approximately $6 million, as follows:

Yosemite	$3,000,000
Shasta	800,000
Shadow Lakes	1,200,000
Long Island-Farber	1,000,000

Of the above developments, the oldest is the Long Island-Farber joint venture and represents an investment in to be developed residential and commercial properties. The only development currently producting any income or revenues is the 12,000 acre

development in Shasta County. Sales have been exceedingly slow and down payments are merely sufficient to cover sales costs. Accordingly, there has been no cash flow from this project although approximately 20% to 25% of the total project has been sold. The subdivision map regarding the Yosemite project has been filed and recorded and the company is currently awaiting the PUC and the Division of Real Estate reports so as to enable the commencement of sales. The Shadow Lakes development is also apparently on the verge of the commencement of sales subject to final agreement with the County of West Palm Beach regarding the water system and the obtaining of a certificate of occupancy for some portion of the units.

In summary, the company is in the position of having generally uniformly profitable operations but is in a poor cash position almost entirely as a result of the continued capital investment in the four development projects discussed above.

It is the belief of management that the long range future of Titan lies in the direction of expansion and growth in the housing and construction fields and the financial services field centering around its insurance agencies and actuarial companies. Management believes that the company does not now have the financial

resources to engage in extensive land developments comparable to the Yosemite project.

2. Proposals and current activities implementing same. Titan's greatest need is for an immediate influx of cash to enable it to resolve its intermediate and long-range problems on a reasonable basis and without the necessity of subjecting itself to significant sacrifice of future potential. Management has been attempting to resolve its immediate liquidity problems through various routes:

(a) Banking. Primarily through the efforts of divisional operational people, lines have been established for local operations at banks in Louisville and New Jersey. In the past few months substantial loans have been obtained and/or renewed with The Chase Manhattan Bank, Franklin National Bank and the Exchange National Bank. Recently tentative additional renewals have been obtained with the possibility of additional financing on a secured basis still open. Management has attempted to secure a substantial open bank line with various banks including those mentioned but with particular reference to the Bank of America and the Union Bank, both in Los Angeles. Discussions with the Bank of America are still continuing.

(b) Disposition of owned developed properties. A program to dispose of developed properties was instituted

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

approximately two years ago. During the past year, the market for income producing real properties has considerably softened. The limited availability and high cost of money has made it extremely difficult to dispose of properties at other than distressed terms. The company has been under contract to dispose of three of its hotels (Golden Triangle, Key to American and Riverside) to Norman Groh since approximately November of 1969. Such sale, if consummated , would have resulted in approximately $2.5-3 million in cash being received by the company. Mr. Groh has had significant problems both in obtaining Holiday Inn approval and the necessary financing. We have recently been informed that such problems have been surmounted and a closing for at least the Golden Triangle is currently scheduled for the week of July 20. In addition, management currently believes that the sale of the Blue Cross Building (to generate in excess of $650,000) will be consummated by the end of July. Finally, serious negotiations are under way with respect to the Grosvenor House in Seattle. None of the foregoing is assured although management believes that there is a reasonably high degree of probability, at least as to Golden Triangle, that one or more sales will occur. In addition, management has been

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

engaging in negotiations with a large variety of potential buyers for virtually all of the owned properties including discussions with Mr. Louis Tickel in Denver and, through an intermediary, with the Manger Hotel chain. Management has also discussed the disposition of part or all of the Long Island development project to Shapell Industries.

In summary, it is fair to say that disposition of owned real properties at a reasonable price would be the most advantageous method of meeting Titan's immediate cash problems at the least sacrifice and with essentially little or no adverse effect on Titan's future potential.

(c) Disposition of Yosemite project. Management has made a continuous effort to attempt to finance or dispose of the Yosemite project under circumstances which would be reasonable if not extremely advantageous to the company. It has been management's continuing belief that such disposition was not feasible until all final governmental approvals are received and the project was potentially in a sales posture. In any event, given the imminence of such circumstances it has appeared advisable to proceed on such assumption. Serious discussions and negotiations in varying degrees have already commenced with a large number of potential joint venturers and/or purchasers including American

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

Standard, Dart Industries, Occidental Petroleum, GAC, Cassuba, International Paper and Forest Lawn. Management believes that within the immediate future, such negotiations will culminate in a transaction which will, at the least, relieve the company of the burden of future expenditures in the Yosemite project and will hopefully return to the company a portion, if not all, of the prior expenditures heretofore made. Management believes that such a course of action with regard to Yosemite is appropriate despite its evaluation that the Yosemite project may well turn out to be an outstanding one from an overall profit viewpoint.

(d) Private and public sources of capital. Management has been engaged in a continuing attempt to search out and obtain substantial capital from every conceivable source. Negotiations have been undertaken, to some extent with the help of investment bankers, with a variety of sources, looking toward obtaining long term money in the form of debt, equity or some combination thereof. Among the persons or entities with whom meaningful conversations have been held and are continuing are the following: Edward McDonald

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

(Denver business man), Herbert Crane (President, Continental Finance), Ford Motor Credit Corporation, Allstate Insurance, and Edward Scarff (San Francisco entrepreneur). Management is currently utilizing the services of the investment banking firms of Dean Witter, Newbuerger Loeb, Hornblower & Weeks-Hemphill, Noyes and DuPont, Glore Forgan in attempts to obtain additional capital from institutional or venture capital sources. In addition, management has been in contact with several REIT's and with several sources for European and other foreign funds. Finally, management is currently considering, with the help of Dean Witter, the advisability of attempting to obtain funds through a public financing (probably convertible debt) in the immediate future.

(e) Acquisition of capital by mergers.

Management has been considering the possibility and advisability of obtaining substantial capital through the vehicle of a merger with a smaller but capital-rich company as well as the possibility of a merger with a much larger company. Discussions have been had during the past several months with Shapell Industries, Shelter Resources (formerly Electronics Capital Corporation), General Portland Cement, Dart Industries, Occidental Petroleum, and IMA. Many of these discussions have proceeded primarily on the level of

obtaining financing through a joint venture or other arrangement with respect to particular projects (such as Yosemite). Management does not believe that this possible solution is likely except on a longer term basis and, in any event, except under extraordinary circumstances, would be one of the less desirable alternatives.

(f) General internal problems. Management is cognizant of the fact that it is the view of a concensus of the Board of Directors that additional top level personnel are desirable. Discussions have ensued with regard to employing executive talent for the company generally and with specific reference to the insurance agency operations, the actuarial companies and the construction and housing group. Serious discussions are currently under way with Alan Borstein (of Boise Cascade) and Frank Zappala. An executive search organization has been employed for the purpose of obtaining personnel for the insurance and actuarial operations.

Some attention has been devoted towards the creation of operations for the construction and housing group in particular. One or more meetings have been held with such persons as Jan Dykman of McClaughry Associates and Jim Duffy in Louisville with regard to FHA and other government subsidized and/or sponsored housing.

There are, of course, a variety of internal

EXHIBIT O, ANNEXED TO REPLY AFFIDAVIT OF HAROLD FAGGEN

problems which are of less significance than those discussed above but which nevertheless need management's attention.

3. Summary and conclusion. Management believes that its program of attempting to generate short term cash by the disposition of real properties and/or the obtaining of loans or equity from the sources discussed above, and the resolution of the cash flow problems by appropriate arrangements with regard to Yosemite, Long Island and Shadow Lakes is reasonable. A favorable resolution of Titan's cash and management problems can be attained only if maximum management time is available for attending to solutions and if maximum cooperation from all divisional management is obtained. It is essential, for example, that reasonable financial controls and flow of information be accomplished immediately. It is impossible to negotiate transactions involving large sums of money without reasonably precise information in the hands of corporate management. It is impossible to maintain flexibility, much less viability, if internal sources of capital are not centrally controlled. Future activities must proceed on the basis of mutual confidence and trust. Management hereby re-expresses and emphasizes its willingness to commit all of its time and energy to the resolution

of the problems and to the realization of what we believe to be Titan's inherent potential.

Respectfully submitted,

Edmund M. Kaufman, Chairman

John C. Spence, President

Benjamin Weinstein, Executive Vice President - Finance-Operations

Lester A. Kaufman, Vice President and Secretary

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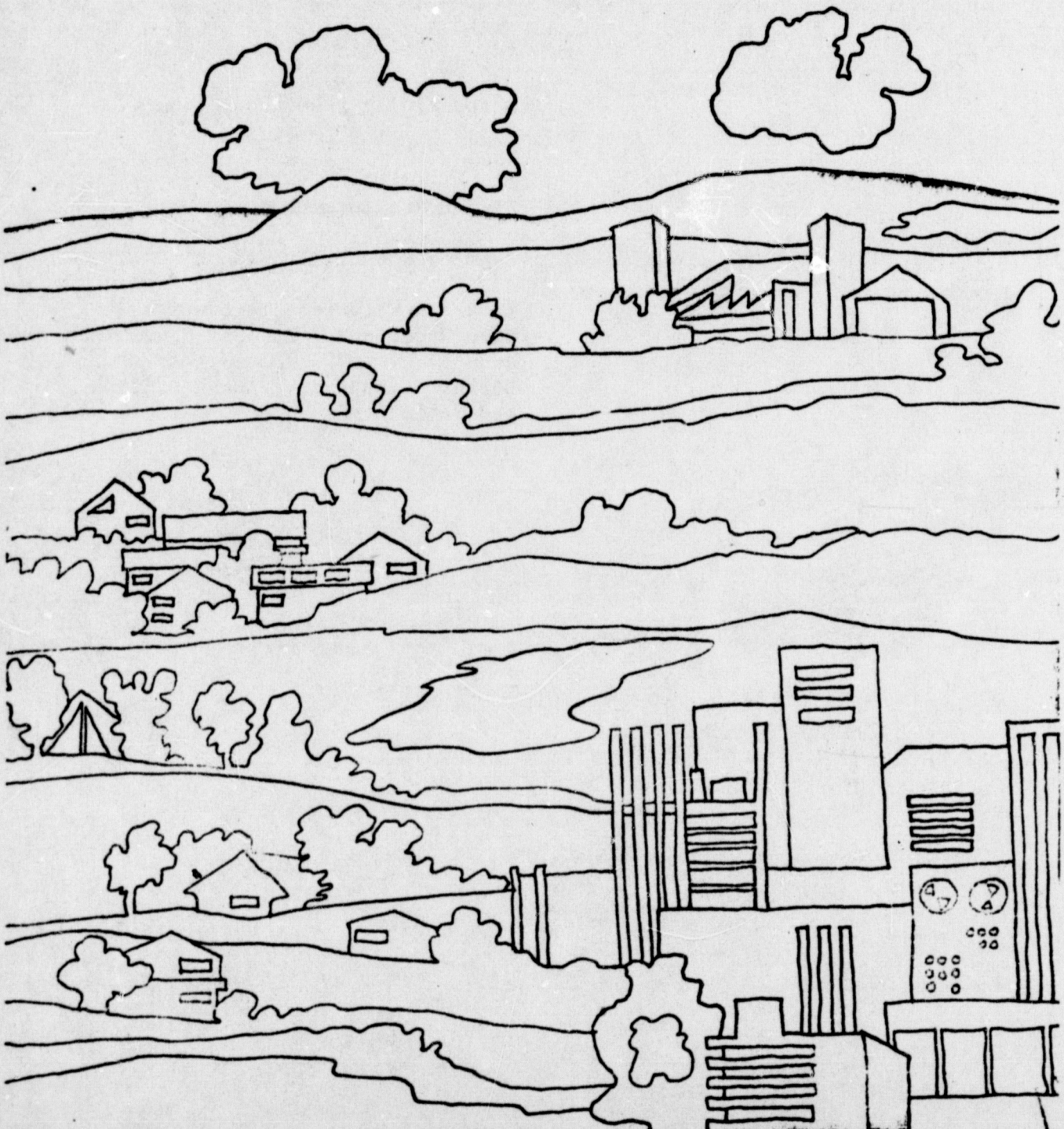
DEFENDANT'S EXHIBIT C

Titan Group, Inc.

Annual Report 1969



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Defendant's Exhibit C

Financial Highlights	1969	1968
Revenues	$48,972,000	$35,609,000
Income (loss) from operations before Federal income taxes	3,529,000	(102,000)
Federal income taxes (credit)	1,788,000	(54,000)
Income (loss) from operations	1,741,000	(48,000)
Per share*	.35	(.01)
Net income	2,534,000	1,772,000
Per share*	.51	.37
Working capital	4,001,000	3,137,000
Stockholders' equity	17,325,000	14,408,000

*Based on average number of shares of common stock outstanding (1969—4,936,742; 1968—4,799,974)

Defendant's Exhibit C

To Our Stockholders

The year 1969 was a critical year in your Company's history, characterized by a series of developments, which, when viewed from the vantage point of future years, should mark the establishment of a base for exciting expansion of your Company in the multi-housing, construction and business services fields.

The development of Titan, since the beginning of the year 1969, can best be understood by noting the following:

A significant change in the leadership of Titan through the appointment of six new principal officers:

Edmund M. Kaufman, 40, Chairman and Chief Executive Officer
John C. Spence, 40, President and Chief Operating Officer
Benjamin Weinstein, 47, Executive Vice President-Finance/Operations
Lester A. Kaufman, 36, Vice President-Real Estate Operations and Secretary
Robert J. Clayton, 28, Treasurer
Paul W. Shooll, 48, Controller

Assembly and organization of a youthful and aggressive corporate management team with breadth and depth. This group is particularly strong in those administrative and financial areas most essential to the operation and control of a large, growing and geographically dispersed company.

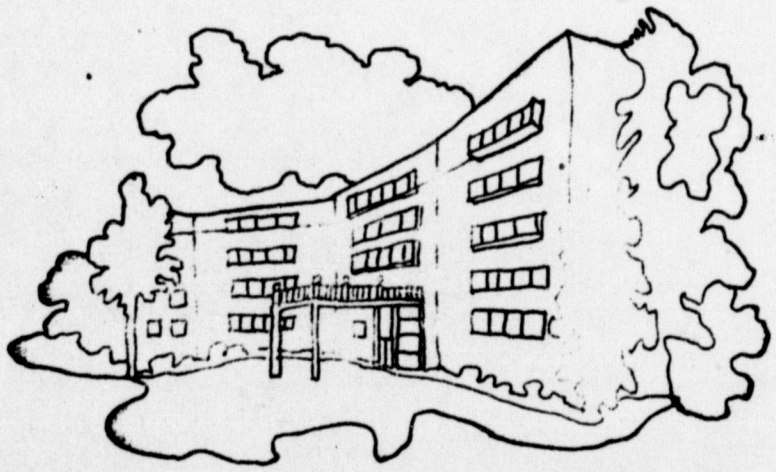
The move of the Company's headquarters from New York City to offices in the new 1900 Avenue of the Stars Building in the rapidly growing business complex at Century City, Los Angeles, California.

Establishment of a national multi-housing, construction and real estate development organization with operations on the Atlantic Seaboard, in the Mid-West, Mid-South and Far West:

Sovereign Construction Co., Ltd.—Governmental construction with high- and low-rise construction capabilities, on the Atlantic Seaboard, led by a highly experienced and successful general contractor, Robert James Frankel.

Multiplex, Inc.—Development and construction of single-family and multiple

In June, 1969, Titan acquired Multiplex, Inc., Cleveland, Ohio, a leading developer of mid-rise apartment projects for investors.



housing throughout the Mid-West, with a strong management team headed by Ronald Rosenfeld and Aron Drost.

Stewart Mechanical Enterprises, Inc.—Mechanical design, engineering and construction capabilities for residential, commercial and industrial buildings, with operations throughout Kentucky and the Mid-South, and led by an experienced management group headed by George F. Duthie and Patrick M. King.

Ready Electric Company—Electrical design, engineering and construction capabilities for residential, commercial and industrial buildings, with operations throughout the South and East (including Puerto Rico) and led by Ollie H. Windhorst.

Farley Construction Company—The largest housing producer in Kentucky, specializing in FHA subsidized and low-cost single family and multiple unit housing, led by an acknowledged expert in FHA and government financed housing, Jack L. Farley.

Consolidated Equity Companies—Medium and high-rise residential and commercial development and construction capabilities, operating in Southern California, led by a management team with a full complement of land development, construction, financing, syndication, and real estate management talents headed by Jack L. Schram and James M. Taylor.

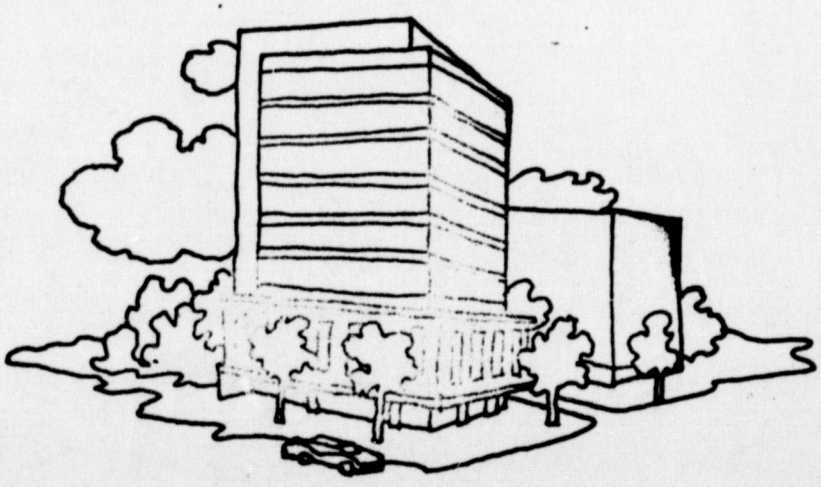
Broadening of insurance agency operations by the acquisition of five additional agencies:

New York—Alliance Brokerage Corporation
Philadelphia—Bala Cynwyd Associates, Inc., and H. Apothaker's Son, Inc.
Los Angeles—Harvey Insurance Agency, Inc., and Hirsch, Gross & Co.

Strengthening of Hotel and Motor Inn operations by acquisition of two excellent motel properties, the Howard Johnson Motor Inn, New Brunswick, New Jersey, and the Air Host Motor Inn at JFK Airport in New York, and disposition of two of the less profitable motel properties, the Parliament Inn, Orlando, Florida, and the Centre Denver Motor Lodge in Denver, Colorado.

It also deserves mention that, for the first year in its history, Titan had income from operations. Revenues for the year ended December 31, 1969 totalled

Consolidated Equity Companies has commenced site work preparatory to construction of a ten story office building in the Century City area of Los Angeles.



$48,972,000 which produced operating income of $1,741,000 and total net income of $2,534,000 or 51 cents per share. For the year 1968, restated to include companies acquired on a pooling of interests basis during 1969, revenues were $35,609,000, the operating loss was $48,000, and total net income was $1,772,000 or 37 cents per share. The income for 1968 essentially resulted from gains on disposition of properties as reduced by operating losses. Per share earnings are based on the average number of shares of common stock outstanding. The 1969 income does not include the results of Ready Electric and Farley Construction which were acquired subsequent to year end.

The change from a deficit generating company to one with operating income was primarily the result of Titan's planned acquisition program. Management's objective for this program was the establishment of a sound operating base with the capability of future expansion. To a great extent, this has been accomplished.

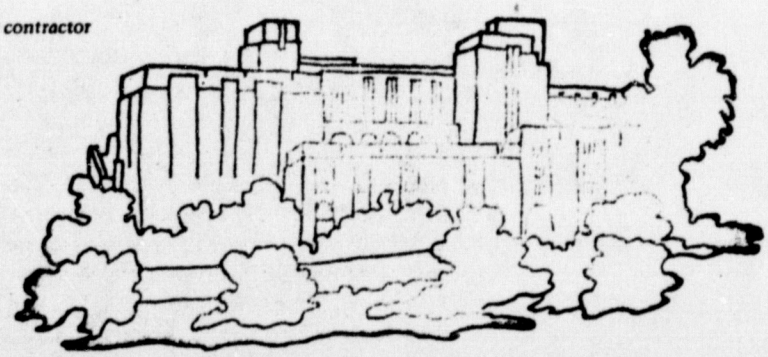
It is Titan's long-range goal to become a significant factor in the nation's housing and construction industry as well as in the field of business services. We believe that both goals can best be realized by establishing operations which are experienced, versatile, geographically dispersed, and capable of taking advantage of existing opportunities and meeting new challenges.

The tremendous diversity, the enormous range of opportunity and the rapidity of economic and technological change presently characteristic of the housing and construction industry have dictated our approach in this area. Your management has sought to create an operational framework which will enable Titan to participate in fulfilling the nation's housing needs from many vantage points, with particular emphasis upon those areas and functions where product design and control, and profitability, are most evident.

While considering our commitment to business services, it became evident that the need of businessmen for such services that they in many cases, cannot readily provide for themselves, increases in proportion to the growth and complexity of their businesses. Business recognizes this need, and the demand for business services, of all kinds, has been increasing rapidly. Insurance agents must become risk analyzers and consultants, and they must be able to advise when to self-insure as well as when to buy insurance. They must be able to provide loss engineering services in order to help clients control costs, and provide special insurance packages to cover specific

Sovereign has been the largest contractor at West Point in recent years.

The Science Building.



Defendant's Exhibit C

business risks. In connection with employee benefits they must provide a range of expertise in insurance, pension and profit sharing plans, and investments. By expanding its business services and building a reputation for competence and reliability Titan is placing itself in a position to realize long-term growth in this dynamic field.

Efforts to direct the greater share of Titan's resources and energies into the multi-housing and construction and business services fields are based on several convictions. We believe that the American economy is fundamentally strong, and retains exceptional growth potential. It is anticipated that the inflationary pressures we have been experiencing will be lessened in the years ahead. These pressures notwithstanding, recent developments in federal government policy and within the financial community should result in easing of monetary restraints. Further, the increasing recognition of the social and economic implications of the housing crisis is now seen in the government's deepening commitment to residential shelter. Finally, decreasing availability of land coupled with increasing land prices dictate more efficient use of land for housing. It can be concluded, then, that these conditions will translate the expanding need for shelter of all kinds into a substantial market demand, with the strongest demand being experienced in the multiple unit sector. Similarly, we expect an increased demand for commercial, industrial and institutional facilities as well as integrated residential-commercial developments and planned communities in which your Company can now participate.

By allocating our financial and management resources to those areas of greater profitability and substantial growth opportunities, and by disposing of those properties which have proven less profitable, your Company achieved gratifying results in 1969. We enter 1970 with the confidence that the Company is pursuing objectives which will tend to optimize the return on its resources. We intend to continue building steadily, both by internal growth and selective acquisitions, on the solid foundation now established. Improved results are anticipated in fiscal 1970 as well as in the years beyond.

We wish to express our sincere appreciation to our shareholders for their continued support, and to our officers and employees for their loyalty and contribution to the progress of their Company.

Edmund M. Kaufman

EDMUND M. KAUFMAN, CHAIRMAN

John C Spence

JOHN C. SPENCE, PRESIDENT

April 24, 1970

Review of 1969 and the Beginning of 1970

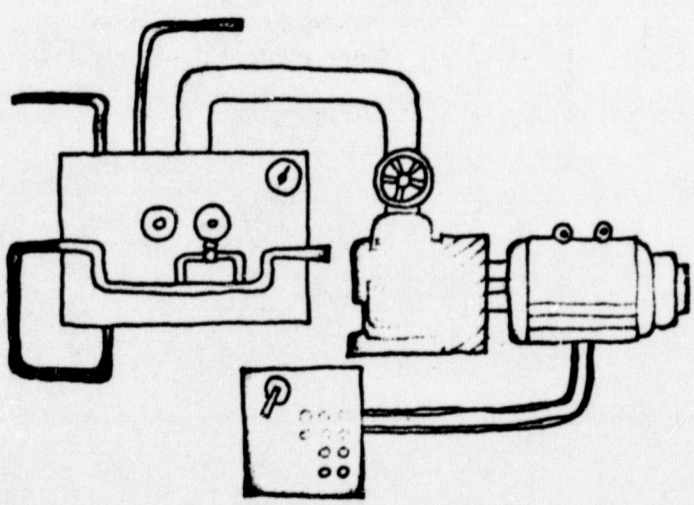
MULTI-HOUSING AND CONSTRUCTION

In June, 1969, Titan acquired Multiplex, Inc., Cleveland, Ohio, a leading developer of mid-rise apartment projects for investors in the Midwestern States, as well as single family homes in the Cleveland area. During the year, Multiplex built 1,631 apartment units and 75 single family homes. Also included in the acquisition was American Management Corp., a Multiplex affiliate, which provides the investors with a full range of apartment management services.

Consolidated Equity Companies, a Los Angeles based developer, was also acquired in the same month. Formerly the J. L. Schram Construction Corp., Consolidated Equity builds high-rise commercial and residential structures and garden apartments on a selective basis for investors. The company has been named developer of the first phase of a $6 million beachfront urban redevelopment project in Ventura, California, and has commenced site work preparatory to construction of a 10-story office building in the Century City area of Los Angeles.

In September, a third major construction firm was acquired, Sovereign Construction Company of Fort Lee, New Jersey, which is located across the Hudson River from Manhattan. A general contractor of commercial, residential and institutional buildings, Sovereign produces an annual volume of more than $10 million, and has a construction backlog in excess of $30 million. Included in this figure are large contracts to build the Cadet Barracks and the Science Building at the U.S. Military Academy at West Point. Sovereign has been the largest contractor at West Point in recent years, and is one of the few possessing the necessary skills to duplicate the architectural style at the Academy.

Late in the year, Titan acquired Stewart Mechanical Enterprises, Inc., of Louisville, Kentucky, a major midwestern mechanical engineering and contracting firm. Stewart designs and installs heating and air conditioning systems for residential, commercial, industrial and institutional developments,



Mechanical . . . electrical design, engineering, and construction capabilities.

and is also engaged in the construction of industrial waste disposal systems. With an annual sales volume of approximately $10 million, the company's operating territory covers the states of Kentucky, Indiana, Tennessee, Ohio, Illinois, and Michigan.

The March, 1970, acquisitions of Ready Electric Company, Inc. and Jack L. Farley Construction Company, Inc., both of Louisville, Kentucky, substantially strengthen Titan's construction and development capability in the Mid-West and Mid-South.

Ready Electric possesses considerable expertise in the electrical engineering and contracting of commercial, industrial and multi-family residential structures. This acquisition extends Titan's operations into the electrical contracting field, augmenting our previously established positions in general and mechanical contracting.

Farley Construction builds single family residences in the $15-28,000 price range for low and moderate income families, and is also engaged in apartment construction and mobile home park developments. The operations of Farley Construction mark Titan's entry into FHA subsidized low-cost housing.

Through this acquisition program, Titan has assembled a construction capability that is national in scope and versatile in character. With major firms operating in the Northeast, Mid-West, Mid-South, and Far West, the Company has created a solid base of activity in key metropolitan areas from which to build for the future. The versatility of construction expertise, covering single-family and multi-family residential, commercial, industrial, institutional and recreational building, will permit the Company to adapt more readily and more profitably to the changing economics of the housing and construction industry.

In conjunction with a well-respected builder in the New York area, your Company is developing two properties on Long Island: 600 acres at Bellport with frontage on the Sunrise Highway, and 180 acres at Medford, located near the new Long Island Expressway. The majority of the acreage will be used for single family residences and will be accompanied by the

The operations of Farley Construction mark Titan's entry into FHA subsidized low-cost housing.

development of selected commercial, institutional, and industrial sites.

Preliminary sales have begun at Shadow Lakes Village, our mobile home, condominium development near West Palm Beach, Florida. Orders are now being taken in the first section of 247 homes with occupancy expected in May of 1970. It is anticipated that sales of the total 750 units will take place over a two-year period. Buyers are being offered a selection of 18 mobile home models from five leading manufacturers in addition to a choice of single- or double-wide lots, many of which are situated along the three private lakes and their inter-connecting waterway. The planned community will include a swimming pool, recreation building, shuffleboard courts and bicycling facilities—all of which will belong to the Property Owners' Association in perpetuity.

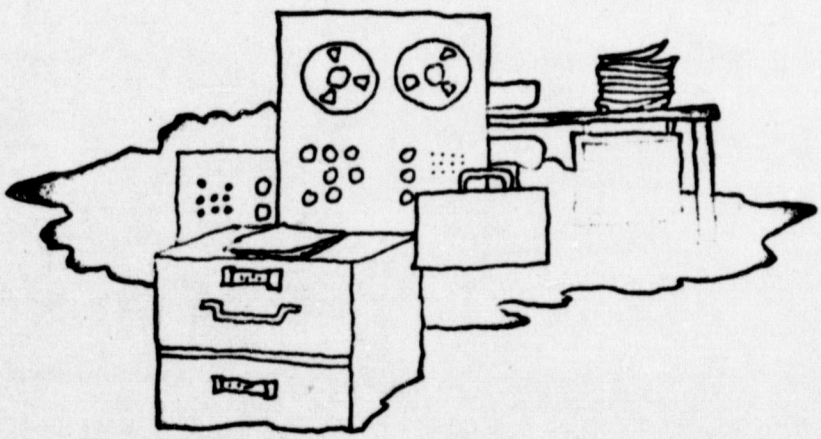
BUSINESS SERVICES

The Harold Faggen Companies, one of the nation's prominent actuarial, consulting and computer service organizations, continued its profitable growth during 1969. Headquartered in New York City, the Faggen operation provides computerized pension and welfare fund administration to multi-employer union pension funds providing benefits to over 1,000,000 persons. A comprehensive and highly flexible computer program is being developed which will enable us to provide additional data processing services to present welfare and pension fund clients.

Since the beginning of 1969, Titan substantially increased the scope of its insurance agency operations through the acquisition of five firms located in the New York, Philadelphia and Los Angeles metropolitan areas. Under the new name of Titan Agencies, Inc., the operations of these firms are being combined with those of Titan's large Bergman & Lefkow insurance organization, which has offices in Chicago, Miami, Los Angeles and New York.

Concentrating largely on casualty and life insurance with heavy emphasis on corporate clients, the agencies together account for an annual premium volume of approximately $23,800,000. Additional high-performance agencies will be added to strengthen our representation in major metropolitan areas

By expanding its business services and building a reputation for competence and reliability Titan is placing itself in a position to realize long-term growth in this dynamic field.



as well as to expand our markets into other industrial centers throughout the country.

The size and diversity of our present client group and the numerous marketing possibilities available through these channels offer prospects for growth into additional business service areas. Your Company is now exploring a number of related business services to be added to those we now provide.

LAND DEVELOPMENT PROJECTS

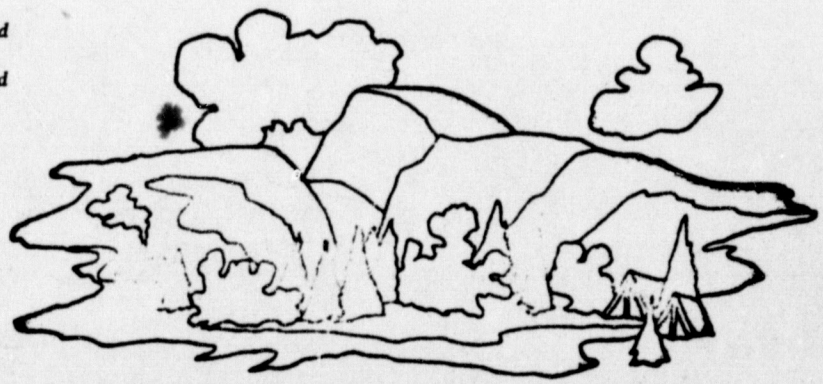
Our Yosemite Lakes development, situated half-way between Fresno, California, and Yosemite National Park, has been enlarged to 7,400 acres and is being subdivided into 2,250 residential lots ranging in size from 1 to 16 acres. Located behind guarded gates, the area includes 7 lakes, 1,200 acres of greenbelt, and 56 miles of bridle trails. Facilities will include a private club house and restaurant, resort-size heated swimming pool, men and women's sauna baths, championship tennis courts, nine-hole executive golf course, archery range, equestrian center, and property owners' campsites. Sales will begin in June of 1970 and are expected to be completed in late 1971.

Shasta Acres, our 12,000 acre development near Redding in Northern California, is located near beautiful snow-capped Mount Shasta in an outstanding sports and vacation area. It has been subdivided into 40-acre ranchos which are being sold to individuals for second-home living as well as for investment. Sales began in December of 1969 and will continue during the balance of 1970.

REAL ESTATE OPERATIONS

Revenues in the Hotel/Motel Division for 1969 were up by $1,400,000 and the resultant profits and cash flow were substantially higher than in 1968. The profit potential of the division was greatly increased by the acquisition and refurbishing of the Air Host Inn at JFK Airport, New York, and the Howard Johnson Motor Lodge, New Brunswick, New Jersey. The division was further strengthened by the upgrading of facilities at the Dupont Plaza Hotel, Washington, D.C. and the Golden Triangle Motor Hotel, Norfolk, Virginia.

Our Yosemite Lakes development, situated halfway between Fresno, California, and Yosemite National Park, has been enlarged to 7400 acres.



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During 1969, higher profits and cash flow were also obtained from our commercial and residential properties. In addition, several properties were sold in pursuance of our policy of re-deployment of assets from less profitable real property investments into more profitable development and construction projects.

In early 1970, the supervision of the remaining apartment and office buildings was assigned to the very capable property management team at Consolidated Equity Companies, our recently acquired Los Angeles subsidiary.

Since the beginning of 1969, a total of nine properties has been sold:

Office Buildings: Bockl Building, Milwaukee, Wisconsin; Petroleum Tower, Shreveport, Louisiana; Shell Oil Building, Tulsa, Oklahoma.

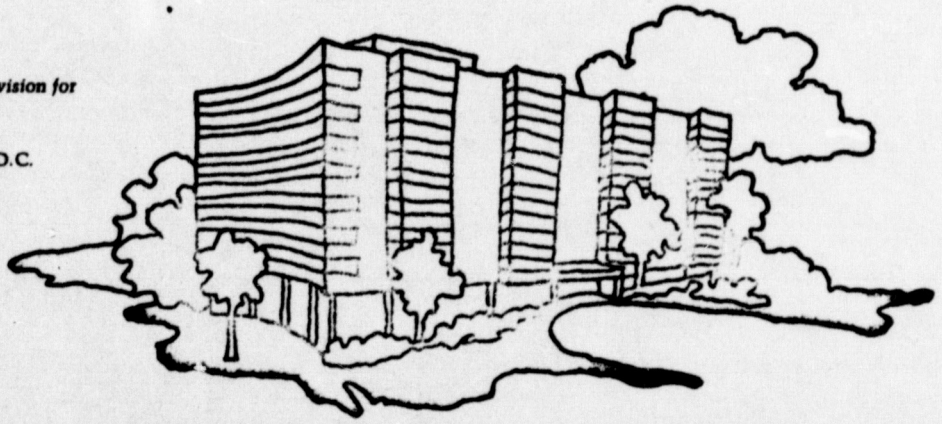
Apartments: Highland Village Apartments, Los Angeles, California; Barnaby & High Point Apartments, Washington, D.C.; Glassmanor Apartments, Washington, D.C. area; Park Drive Apartments, New York, New York.

Motor Inns: Parliament House Motor Inn, Orlando, Florida; Centre Denver Motor Inn, Denver, Colorado.

United Airport Properties, Inc., a 60% owned subsidiary, leases a hangar, offices, and aircraft tie-down spaces on 13 acres in a key location at busy Van Nuys Airport near Los Angeles. All present space is fully rented and plans are now being made for the development of additional facilities to serve private, executive and small commercial aircraft.

Revenues in the Hotel/Motel Division for 1969 were up by $1,400,000.

The DuPont Plaza, Washington D.C.



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Titan Group, Inc. and Subsidiaries

Statement of Consolidated Income

	Year ended December 31 1969	1968
REVENUES		
Construction and real estate developments	$20,958,000	$ 8,213,000
Insurance and actuarial services	8,998,000	6,889,000
Income producing properties	17,992,000	19,885,000
Interest, dividends and other income	1,024,000	622,000
	48,972,000	35,609,000
COSTS AND EXPENSES		
Cost of sales and operating expenses	40,666,000	29,143,000
Depreciation and amortization	1,741,000	3,266,000
Interest and debt expense	1,974,000	2,499,000
Administrative and other corporate expenses	1,062,000	803,000
	45,443,000	35,711,000
Income (loss) from operations before Federal income taxes	3,529,000	(102,000)
Federal income taxes (credit)	1,788,000	(54,000)
INCOME (LOSS) FROM OPERATIONS	1,741,000	(48,000)
NET GAIN ON DISPOSITION OF ASSETS and provision for decline in value of properties, less Federal income taxes of $69,000 ($778,000 in 1968)	103,000	1,930,000
EXTRAORDINARY ITEMS		
Federal income tax benefit of loss carry-forward	690,000	90,000
Claim costs related to insurance subsidiary discontinued in 1967, less Federal income taxes of $200,000	—	(200,000)
	690,000	(110,000)
NET INCOME	$ 2,534,000	$ 1,772,000
INCOME (LOSS) PER SHARE		
Income (loss) from operations	$.35	$(.01)
Net gain on disposition of assets	.02	.40
Extraordinary items	.14	(.02)
Net income	$.51	$.37

See accompanying notes to consolidated financial statements.

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Titan Group, Inc. and Subsidiaries

Assets

	December 31 1969	1968
CURRENT ASSETS		
Cash and marketable securities, at cost (approximating market)	$ 6,682,000	$ 5,535,000
Trade accounts and notes receivable	12,418,000	5,708,000
Mortgages receivable, current installments	221,000	3,749,000
Income producing properties disposed of in 1970	563,000	—
Construction costs and recognized income in excess of billings	551,000	881,000
Real estate under development, current portion	2,901,000	—
Prepaid expenses and other current assets	1,047,000	1,234,000
TOTAL CURRENT ASSETS	24,383,000	17,107,000
REAL ESTATE UNDER DEVELOPMENT, less current portion	3,161,000	1,868,000
INCOME PRODUCING AND OTHER PROPERTIES, principally hotels and motels, office and apartment buildings, at cost, less accumulated depreciation, amortization and reserves for estimated decline in value	17,478,000	39,071,000
INVESTMENTS AND OTHER ASSETS		
Investments in and advances to jointly owned companies	1,350,000	2,014,000
Mortgages receivable, less current installments	3,934,000	1,492,000
Excess of cost over net assets of acquired companies	5,054,000	4,774,000
Other	2,455,000	1,220,000
TOTAL INVESTMENTS AND OTHER ASSETS	12,793,000	9,500,000
	$57,815,000	$67,546,000

See accompanying notes to consolidated financial statements.

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Consolidated Balance Sheet

Liabilities and Stockholders' Equity

	December 31 1969	1968
CURRENT LIABILITIES		
Notes payable	$ 2,098,000	$ 3,402,000
Mortgage indebtedness	1,408,000	2,298,000
Accounts payable and accrued liabilities	12,429,000	7,537,000
Federal income taxes, current and deferred	2,239,000	551,000
Billings in excess of construction costs and recognized income	2,208,000	182,000
TOTAL CURRENT LIABILITIES	20,382,000	13,970,000
LONG-TERM DEBT, less current portion		
Notes payable	1,215,000	1,756,000
Mortgage indebtedness	11,287,000	30,543,000
Subordinated convertible installment notes	5,500,000	5,500,000
TOTAL LONG-TERM DEBT	18,002,000	37,799,000
DEFERRED FEDERAL INCOME TAXES	340,000	—
DEPOSITS, DEFERRED CREDITS AND OTHER LIABILITIES	1,766,000	1,369,000
STOCKHOLDERS' EQUITY		
Preferred stock of $6 par value per share. Authorized 2,000,000 shares; issued—none		
Common stock of $1 par value per share. Authorized 15,000,000 shares; issued 4,888,942 shares (4,731,407 shares in 1968)	4,889,000	4,731,000
Additional paid-in capital	12,629,000	12,104,000
Retained earnings (deficit)	330,000	(2,204,000)
	17,848,000	14,631,000
Less cost of 67,250 shares in treasury (27,250 shares in 1968)	523,000	223,000
TOTAL STOCKHOLDERS' EQUITY	17,325,000	14,408,000
	$57,815,000	$67,546,000

Defendant's Exhibit C

Titan Group, Inc. and Subsidiaries

Statement of Consolidated Stockholders' Equity

Year ended December 31, 1969

	Common Stock Shares	Common Stock Amount	Additional paid-in capital	Retained earnings (deficit)	Treasury stock	Total
BALANCE AT JANUARY 1, 1969, as previously reported	3,751,407	$3,751,000	$13,211,000	$(3,586,000)	$(223,000)	$13,153,000
Companies acquired in 1969 as poolings of interests	980,000	980,000	(1,107,000)	1,483,000	—	1,356,000
Adjustment for prior period litigation	—	—	—	(101,000)	—	(101,000)
BALANCE AT JANUARY 1, 1969, as restated	4,731,407	4,731,000	12,104,000	(2,204,000)	(223,000)	14,408,000
Issuance of common stock for purchased company	150,535	151,000	654,000	—	—	805,000
Expenses in connection with poolings of interests	—	—	(164,000)	—	—	(164,000)
Purchase of 40,000 shares of treasury stock	—	—	—	—	(300,000)	(300,000)
Exercise of stock options	7,000	7,000	35,000	—	—	42,000
Net income	—	—	—	2,534,000	—	2,534,000
BALANCE AT DECEMBER 31, 1969	4,888,942	$4,889,000	$12,629,000	$ 330,000	$(523,000)	$17,325,000

Statement of Consolidated Source and Application of Funds

Year ended December 31, 1969

SOURCE OF FUNDS	
Net income	$2,534,000
Depreciation and amortization	1,741,000
Provision for decline in value of properties	1,300,000
Deferred income taxes (non-current)	340,000
Cost of properties sold, less mortgage indebtedness	1,992,000
Reduction of investments in and advances to jointly owned companies	664,000
Other, net	715,000
	$9,286,000
APPLICATION OF FUNDS	
Mortgages receivable arising from sale of properties	$2,812,000
Additions to income producing and other properties, less mortgage indebtedness assumed	2,243,000
Payments on long term debt	1,774,000
Additions to real estate under development	1,293,000
Purchase of treasury stock	300,000
Increase in working capital	864,000
	$9,286,000

See accompanying notes to consolidated financial statements.

Defendant's Exhibit C

Notes to Consolidated Financial Statements

PRINCIPLES OF CONSOLIDATION

The consolidated financial statements include the accounts of Titan Group, Inc. and its wholly-owned subsidiaries. All significant intercompany transactions have been eliminated in consolidation. The comparative 1968 financial statements have been conformed to the 1969 presentation.

During 1969 the Company acquired certain companies in exchange for 980,000 shares of common stock in transactions accounted for as "poolings of interests." The operations of these companies are included in the statement of consolidated income for 1969. The 1968 financial statements have been restated to include the pooled companies.

Also, in September 1969 the Company acquired certain other companies in exchange for 150,535 shares of common stock, which were assigned a value approximating the net assets of the acquired companies, in a transaction accounted for as a "purchase." The operations of these companies are included in the statement of consolidated income from the date of acquisition.

Under the agreements for the acquisition of the foregoing companies, a maximum of 1,098,713 (385,713 relating to the "purchased" companies) additional shares of common stock may be issued or released from escrow contingent upon the future earnings (as defined) of the acquired companies and the market value of the Company's common stock.

The excess of cost over net assets of acquired companies will not be amortized unless there is a diminution in its value.

ACCOUNTING PRACTICES

Income from construction contracts is recorded under the percentage-of-completion method of accounting with provision being made for anticipated losses. Claims for reimbursement of additional costs relating to construction contracts are recorded as such costs are incurred. Claims of this type arising prior to the acquisition of a purchased company are included in other assets and in trade accounts and notes receivable in the amount of $1,950,000 and $850,000, respectively.

The costs of real estate under development that has entered the normal operating cycle have been classified among the current assets, although realization of such costs may extend beyond one year.

Mortgages receivable arising from disposition of assets are recorded at estimated realizable amounts after consideration of the pertinent terms, conditions and security underlying the transactions. At December 31, 1969 the principal amount of mortgages receivable exceeded the carrying amounts by $2,525,000.

Investments in six jointly owned companies are stated at cost less cash distributions received. The investment in one company has been fully recovered and income is credited as further cash distributions are received. As of December 31, 1969 the net investment exceeded the equity in the jointly owned companies by approximately $131,000. In the opinion of management no losses will be sustained on these investments.

INCOME PRODUCING AND OTHER PROPERTIES

Income producing and other properties are comprised of the following:

	1969	1968
Land and improvements	$ 4,291,000	$ 6,928,000
Buildings and improvements	17,151,000	43,856,000
Leaseholds and improvements	4,050,000	3,578,000
Furniture and equipment	4,470,000	4,613,000
Construction in progress	245,000	286,000
	30,207,000	59,261,000
Less:		
Accumulated depreciation and amortization	10,129,000	18,200,000
Reserves for estimated decline in value	2,600,000	1,990,000
	12,729,000	20,190,000
	$17,478,000	$39,071,000

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Depreciation and amortization of the cost of income producing and other properties has been provided by use of the straight-line method predicated upon estimated useful lives or lease terms, as applicable, which range as follows: land improvements, 10 to 15 years; buildings and improvements, 10 to 45 years; leaseholds and improvements, 10 to 30 years; and furniture and equipment, 5 to 10 years.

Effective January 1, 1969 the Company revised the estimated useful lives of certain buildings and improvements to conform generally with the guideline lives issued by the Treasury Department. The effect of this change increased income from operations for 1969 by $281,000 ($.06 per share) and decreased net gains on disposition of assets by $184,000 ($.04 per share).

Reserves for estimated decline in value of properties include $1,300,000 established as of December 31, 1969. Such reserves are based upon management's evaluation of the potential for future profitability from the operations of the properties or the extent of realization upon disposition.

Properties disposed of in 1970 are included among the current assets in the amount of $563,000 and consist of two properties with a cost (less accumulated depreciation and amortization) of $7,520,000, subject to mortgage indebtedness aggregating $6,957,000 at December 31, 1969. The resultant gains have not been reflected in the accompanying financial statements.

NOTES PAYABLE

	Current	Long-Term	Total
Banks:			
Secured	$ 312,000	$ 391,000	$ 703,000
Unsecured	648,000	113,000	761,000
	960,000	504,000	1,464,000
Other:			
Secured	816,000	156,000	972,000
Unsecured	322,000	555,000	877,000
	1,138,000	711,000	1,849,000
	$2,098,000	$1,215,000	$3,313,000

The overall effective interest rate on notes payable is 7.8%.

A note payable of $400,000 at December 31, 1969 is secured by mortgages receivable in the amount of $999,000. Additionally, notes payable of $478,000 and accounts payable of $893,000 are secured by real estate under development. The remaining notes are secured by other assets.

MORTGAGE INDEBTEDNESS

Principal payments on mortgage indebtedness for years subsequent to December 31, 1969 are as follows:

Current	1970	$ 1,408,000
Long-term	1971	1,118,000
	1972	1,360,000
	1973	952,000
	1974	846,000
	1975-1990	7,011,000
		11,287,000
		$12,695,000

Interest rates range from 4.5% to 9.5% with an overall effective rate of 5.9%. Mortgage indebtedness is generally secured solely by the mortgaged assets (income producing and other properties and real estate under development).

SUBORDINATED CONVERTIBLE INSTALLMENT NOTES

Installment notes in the amount of $5,500,000 bear interest at 4% per annum and are convertible at the election of the holders into 50,000 shares of common stock with respect to $750,000 principal amount and 237,500 shares of common stock with respect to the remaining $4,750,000 principal amount. In the event the holders of the notes do not elect to exercise the conversion privilege, the notes are payable in annual installments of $1,100,000 commencing November 1, 1974. Principal may be prepaid on or after November 1, 1971 at 105% of the principal amount (and at

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decreasing premiums thereafter). The notes are subordinated to all senior debt, as defined, whether outstanding at the date of the indenture or thereafter incurred or created.

FEDERAL INCOME TAXES

The Company and its subsidiaries file a consolidated Federal income tax return.

Deferred Federal income taxes relate to timing differences in reporting of income for tax purposes and for financial purposes. The principal differences arise from reporting of gains on disposition of assets and sales of real estate developments on the installment method for tax purposes, provisions for decline in value of properties not presently deductible for tax purposes and the recognition of income from construction contracts in differing accounting periods. Deferred Federal income taxes of $824,000 ($408,000 in 1968) classified in Federal income taxes among the current liabilities relate to timing differences of items included as current assets or current liabilities.

A summary of Federal income taxes charged to income follows:

	1969	1968
Current	$ 813,000	$199,000
Deferred	354,000	235,000
	$1,167,000	$434,000

COMMON STOCK

In October 1969 the stockholders approved an increase in the authorized shares of common stock from 6,000,000 shares to 15,000,000 shares.

Under a 1966 Stock Option Plan and a 1969 Stock Option Plan approved by the stockholders in May 1969, the Company has granted options to purchase common stock at prices not less than the fair market value at date of grant to certain officers and key employees. The options are exercisable in whole or in increments over periods not to exceed five years, depending upon the terms of each option. At December 31, 1969 options covering 177,500 shares of stock were outstanding under the 1966 Plan and 76,150 shares were outstanding under the 1969 Plan. An additional 73,850 shares were reserved for future grant under the 1969 Plan, and no additional grants may be made under the 1966 Plan.

Transactions under the stock option plans during 1969 are summarized as follows:

	Number of Shares	Option Price Per Share	Option Price Aggregate	Fair Market Value at Date of Grant Per Share	Fair Market Value at Date of Grant Aggregate
Options outstanding at January 1, 1969	181,400	$ 6.00-17.75	$2,236,000	$ 4.00-17.75	$2,189,000
Add (deduct) 1969 transactions:					
Granted	97,150	10.38-17.50	1,265,000	10.38-17.50	1,265,000
Exercised	(7,000)	6.00	(42,000)	4.00- 5.00	(34,000)
Cancelled	(17,900)	6.00-17.75	(183,000)	4.00-17.75	(169,000)
Options outstanding at December 31, 1969	253,650	$ 6.00-17.75	$3,276,000	$ 5.00-17.75	$3,251,000
Options exercisable:					
January 1, 1969	3,000	$ 6.00	$ 18,000	$ 5.00	$ 15,000
December 31, 1969	50,550	$ 6.00-17.75	$ 512,000	$ 5.00-17.75	$ 501,000

The Board of Directors has approved a Restricted Stock Purchase Plan under which 100,000 shares of common stock are reserved for purchase by officers and key employees at prices not less than fifty percent of fair market value. No purchase rights had been granted under this Plan as of December 31, 1969.

Under certain stock purchase agreements the Company has issued 22,000 shares of common stock to officers and employees at prices ranging from $13.25 to $14.25 per share (aggregating $306,812). The Company may be required to repurchase the shares at the issuance price; accordingly, the issued shares have not been reflected in the accompanying financial statements.

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INCOME PER SHARE

Income per share is based upon the average number of shares of common stock outstanding during each year, which includes (1) shares issued for companies acquired in "poolings of interests" transactions, (2) additional shares that may be issued for all acquired companies where the levels of earnings required for issuance have been attained and (3) additional shares that may be issued under market price guarantees assuming a prevailing year-end market value for the Company's common stock. The average number of shares of common stock outstanding for these computations was 4,936,742 for 1969 and 4,799,974 for 1968.

The exercise or conversion of stock options, stock purchase agreements and subordinated convertible installment notes into common shares and additional common shares contingently issuable in connection with acquisitions would not result in a dilutive effect on the foregoing income per share computations.

COMMITMENTS AND CONTINGENT LIABILITIES

The Company leases a portion of its operating and other facilities under lease agreements which provide for aggregate minimum annual rentals of approximately $2,100,000 through 1974 and lesser amounts thereafter to 1996. Certain of these leases provide for additional rentals based on revenues and for payment of property taxes and other charges by the Company. Total rentals for the year ended December 31, 1969 amounted to approximately $1,800,000.

The Company has guaranteed to the extent of $1,500,000 the payment by an insurance subsidiary of all sums to become due to two insurance companies under agency agreements including, if any, losses from claims in excess of reserves established from operations. Operations of the subsidiary were discontinued in 1967. In the opinion of management, reserve balances at December 31, 1969 were adequate.

The Company is contingently liable under a mortgage on property sold under a leaseback agreement in 1966 to the extent the mortgage exceeds $2,750,000. As of December 31, 1969 the estimated mortgage balance was $3,124,000.

The Company has other outstanding claims and guarantees and is engaged in various litigation of a nature incidental to its business, which in the opinion of counsel and management should not result in material liabilities.

SUBSEQUENT ACQUISITIONS

Subsequent to December 31, 1969 the Company acquired the following companies in exchange for 379,500 shares of common stock:

Ready Electric Company
Jack L. Farley Construction Company
H. Apothaker's Son

Certain of the acquisition agreements provide for issuance of a maximum of 62,375 additional shares contingent upon the future market value of the Company's common stock.

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Defendant's Exhibit C

Accountants' Report

PEAT, MARWICK, MITCHELL & Co.
CERTIFIED PUBLIC ACCOUNTANTS
10900 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

The Board of Directors and Stockholders
Titan Group, Inc.:

We have examined the consolidated balance sheet of Titan Group, Inc. and subsidiaries as of December 31, 1969 and the related statements of income and stockholders' equity and the statement of consolidated source and application of funds for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying consolidated balance sheet and statements of consolidated income and stockholders' equity present fairly the financial position of Titan Group, Inc. and subsidiaries at December 31, 1969 and the results of their operations for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Also, in our opinion, the statement of consolidated source and application of funds for the year ended December 31, 1969 presents fairly the information shown therein.

Peat, Marwick, Mitchell & Co.

April 15, 1970

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Defendant's Exhibit C

DIRECTORS

Samuel N. Bergman
Vice President—Insurance
President, Bergman & Lefkow Insurance Agency, Inc.*

A. Robert Doll
Greenebaum, Grissom, Doll, Matthews & Boone, Attorneys

Aron Drost
Vice President, Multiplex, Inc.*

George F. Duthie
President, Stewart Mechanical Enterprises, Inc.*

Harold Faggen
Chairman, Harold Faggen Actuarial Companies*

Alfred M. Frager
President, A. M. Frager & Co.

Edmund M. Kaufman
Chairman

Benjamin M. Robinson
Vice Chairman

Ronald Rosenfeld
President, Multiplex, Inc.*

John C. Spence
President

Benjamin Weinstein
Executive Vice President—Finance/Operations

PRINCIPAL OFFICERS

Edmund M. Kaufman
Chairman

Benjamin M. Robinson
Vice Chairman

John C. Spence
President

Benjamin Weinstein
Executive Vice President—Finance/Operations

Samuel N. Bergman
Vice President—Insurance

Robert C. Brink
Vice President—Real Estate Development

Lester A. Kaufman
Vice President—Real Estate Operations & Secretary

Palmer R. Suddaby
Vice President—Hotels and Motor Inns

Robert J. Clayton
Treasurer

Paul W. Shooll
Controller

Titan Group, Inc.

Corporate Office
1900 Avenue of the Stars
Century City
Los Angeles, California 90067

TRANSFER AGENTS

Bankers Trust Company
New York, New York

Continental Illinois National Bank & Trust Company of Chicago
Chicago, Illinois

REGISTRARS

Franklin National Bank
New York, New York

The Exchange National Bank of Chicago
Chicago, Illinois

AUDITORS

Peat, Marwick, Mitchell & Co.
Los Angeles, California

GENERAL COUNSEL

Irell & Manella
Los Angeles, California

*Subsidiary of Titan Group, Inc.

DEFENDANT'S EXHIBIT D

TITAN GROUP, INC.

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

To Be Held May 21, 1969

The Annual Meeting of Shareholders of Titan Group, Inc. will be held at the Beverly Hilton Hotel, 9876 Wilshire Boulevard, Beverly Hills, California, on Wednesday, May 21, 1969, at 11:00 A.M. Pacific Daylight Time, to consider and act upon the following matters:

(1) The election of Directors;

(2) The adoption of a new employee stock option plan; and

(3) Such other business as may properly come before the meeting or any adjournment thereof.

Shares represented by properly executed management proxies will be voted in accordance with instructions therein, and it is the intention of Management that shares represented by proxies which are not limited to the contrary will be voted in favor of the election of the persons named in the accompanying proxy statement as directors and in favor of the adoption of a new employee stock option plan.

The Board of Directors has fixed the close of business on April 14, 1969 as the record date for determining those stockholders who will be entitled to vote at the meeting and any adjournment or adjournments thereof.

By order of the Board of Directors,

RICHARD K. MCINTYRE,
Secretary.

May 1, 1969

It is desirable that as large a proportion as possible of the Shareholders' interests be represented at the meeting and, therefore, if you are unable to be present in person or otherwise represented at the meeting, you are requested to sign and return the enclosed Proxy so that your shares will be represented. The giving of such Proxy will not affect your right to vote in person should you later decide to attend the meeting.

Defendant's Exhibit D

TITAN GROUP, INC.

PROXY STATEMENT

General Information

This statement is furnished in connection with the solicitation of proxies by the Management of Titan Group, Inc. ("Titan" or "The Company"), a Delaware corporation, to be used in voting at the Annual Meeting of Shareholders to be held at 11:00 o'clock A.M. (Pacific Daylight Time) on Wednesday, May 21, 1969 at the Beverly Hilton Hotel, Beverly Hills, California, and at any adjournment or adjournments of such meeting.

Any proxy given may be revoked by a shareholder at any time before it is voted by filing with the Secretary of Titan a notice in writing revoking it, or by duly executing a proxy bearing a later date. Proxies may also be revoked by any shareholder present at the meeting who expresses a desire to vote his shares in person. Subject to such revocation, all shares represented by properly executed proxies will be voted in accordance with the specifications on the proxy card. If no specification is made, the shares will be voted in favor of the election of Messrs. Samuel N. Bergman, Harold A. Faggen, Alfred M. Frager, Anthony M. Frank, Edmund M. Kaufman, Benjamin M. Robinson, John C. Spence and Benjamin Weinstein as directors of the Company and the adoption of a new employee stock option plan.

The cost of soliciting proxies will be borne by Titan. It is contemplated that proxies will be solicited principally through the use of the mails, but officers and regular employees of Titan may solicit proxies personally or by telephone or special letter. Although there is no formal agreement to do so, Titan will reimburse banks, brokerage houses and other custodians, nominees and fiduciaries for their reasonable expenses in forwarding proxy material to their principals.

Voting Securities

Only shareholders of record at the close of business on April 14, 1969 are entitled to notice of and to vote at the Annual Meeting. On that date the Company had 3,727,157 shares of Common Stock outstanding (exclusive of treasury shares), each of which is entitled to one vote on each matter to be considered at the meeting. No person was known by the Company to own beneficially or of record more than 10% of the Company's outstanding shares of Common Stock as of March 31, 1969.

The affirmative vote of the holders of a majority of the shares of Titan's Common Stock entitled to vote at the Annual Meeting will be required for approval of the new employee stock option plan.

Defendant's Exhibit D

I

ELECTION OF DIRECTORS

A board of eight Directors is to be elected to serve until the Annual Meeting of Shareholders in 1970, in each case until their respective successors are duly elected and qualified. Unless otherwise directed, the persons acting under management proxies will vote the shares represented thereby in favor of the election as directors of the nominees named below, all of whom are directors now in office whose terms will expire at the Annual Meeting. The number of directors fixed by the By-Laws of the Company is fourteen, but management has no present intention of proposing additional nominees inasmuch as management believes that the Company will be better represented by a smaller and less cumbersome board. Accordingly, proxies will only be voted for the nominees named below and will not be voted for any additional nominees except that in the event that any nominee is unwilling or unable to serve as a director, which management does not anticipate, it is intended that the persons acting under management proxies will vote for such other person as may be nominated by management.

The following table sets forth certain information with respect to those persons who are both directors and nominees for election as directors, as of March 31, 1969.

Name	Principal Occupation or Position	Has Been a Director Since	Number of Shares of Common Stock Beneficially Owned
Samuel N. Bergman	Sr. Vice President of the Company and President of Bergman & Lefkow Insurance Agency, Inc., a subsidiary of the Company.	1961	39,616(1)
Harold A. Faggen*(A)	Chairman and Chief Executive Officer of Harold Faggen Associates, Inc., a subsidiary of the Company.	1968	20,000(2)
Alfred M. Frager	President and Chief Executive Officer of A. M. Frager & Co., hosiery manufacturers in St. Louis, Missouri.	1962	44,549
Anthony M. Frank*	President and Chief Operating Officer of the Company.	1968	51,000(3)
Edmund M. Kaufman*(A)	Attorney, member of the firm of Irell & Manella, Los Angeles, California; Vice President-Legal of the Company.	1968	68(4)
Benjamin M. Robinson*	Chairman of the Board and senior partner of the law firm of Robinson, Silverman, Pearce, Borden & Ball, New York City, general counsel to the Company.	1960	21,074(5)

Defendant's Exhibit D

Name	Principal Occupation or Position	Has Been a Director Since	Number of Shares of Common Stock Beneficially Owned
John C. Spence*(A)	Vice President-Finance of the Company.	1968	None (6)
Benjamin Weinstein*(A)	Vice President-Finance of Block Investment Corp., Beverly Hills, California.	1968	None (7)

* Member of the Executive Committee of the Board of Directors.

(A) Messrs. Faggen, Kaufman, Spence and Weinstein were elected directors by the Board of Directors on December 12, 1968 to fill the vacancies that had been created by the resignations of certain directors prior to the Company's last Annual Meeting on May 15, 1968. At the last Annual Meeting only ten nominees were elected as directors of the Company. Mrs. Rosalie Futterman Gasco and Messrs. Leonard Casey, James A. Russell, Kurt H. Grunebaum, Richard K. McIntyre and Eugene A. Hegy, Jr., presently members of the Board of Directors, are not seeking re-election.

(1) Does not include options exercisable at $17.375 per share, which expire on December 11, 1973, to purchase 25,000 shares of Common Stock.

(2) Does not include the Company's Convertible Installment Notes in the principal amount of $5,500,000 and bearing interest at 4% issued in connection with the Company's acquisition of all of the outstanding stock of four companies from Mr. Faggen. $750,000 of these notes are Convertible into 50,000 shares of the Company's Common Stock, and the remaining $4,750,000 of these notes are Convertible into 237,500 shares of the Company's Common Stock at any time before November 1, 1978. The amount of Convertible Installment Notes delivered to Mr. Faggen was arrived at as a result of arms-length negotiations between the parties, with each side separately represented by counsel, based upon the financial condition and past earnings history, and after a thorough investigation of the business and assets of the companies acquired from Mr. Faggen.

(3) Does not include options exercisable at $6.50 per share, which expire March 17, 1973, to purchase 25,000 shares of Common Stock, but includes 50,000 shares of Common Stock sold by the Company from its treasury to Mr. Frank during 1968 at a price of $6.00 per share to induce him to enter the Company's employ. The purchase price for such shares was paid substantially by Mr. Frank's promissory note bearing interest at 6% which was due on March 17, 1969, at which time the due date was extended for one year. In the event Mr. Frank leaves the employ of the Company prior to March 18, 1970, he has agreed to resell 25,000 of these shares to the Company at a purchase price of $6.00 per share.

(4) Does not include 298,791 shares held by Century City Investments, a California limited partnership, of which Mr. Kaufman is the general partner.

(5) Does not include options held by Mr. Robinson exercisable at $6.50 per share which expire March 17, 1973, to purchase 25,000 shares of Common Stock.

(6) Does not include options exercisable at $17.625 per share, which expire December 1, 1973, to purchase 15,000 shares of Common Stock. In addition, the Company agreed to sell to Mr. Spence 10,000 shares of Common Stock at a price per share substantially equal to the market price of the Common Stock on the date of the agreement, and the purchase price will be payable substantially by Mr. Spence's promissory note.

(7) Does not include options exercisable at $14.125 per share, which expire March 20, 1974, to purchase 5,000 shares of Common Stock.

For the past five years Mr. Faggen has been Chairman of the Board and Chief Executive Officer of Harold Faggen Associates, Inc. which was acquired by the Company as of September 30, 1968. Mr. Kaufman has been a practicing attorney with the law firm of Irell & Manella for the past five years and since February 12, 1968 has been co-chairman of the Executive Committee of the Company's Board of Directors. Mr. Kaufman is the sole general partner of Century City Investments, a limited partnership, which was formed for the purpose of acquiring and holding 298,791 shares of the Company's common stock. From 1962 until June, 1967, Mr. Spence was Controller of Teledyne Systems Company, a subsidiary of Teledyne, Inc., and from June, 1967 until he was elected Vice President-Finance of the Company in December, 1968, Mr. Spence was Controller and Chief Financial Officer of Federal Sign and Signal Corp., a manufacturer of electric signs, aircraft ground-support equipment and signaling equipment for emergency vehicles and industrial facilities. Mr. Weinstein has been Vice President-

Finance of Block Investment Corporation since September 23, 1968. He served as Vice President-Finance of Parvin/Dohrmann Company from September 20, 1967 to September 20, 1968 and prior to that time as Director of Financial Analysis of Douglas Aircraft Co. Block Investment Corp. manages the personal investments of Gerald B. Block, Chairman of the Board and President of Republic Corporation. Parvin/Dohrmann Co. is a major supplier to the hotel and restaurant industry, operates an interior decorating division and is an owner of hotels in Las Vegas.

Remuneration and Other Transactions with Directors and Officers

The following tabulation sets forth the aggregate direct remuneration paid by the Company and its subsidiaries during the fiscal year ended December 31, 1968, to (i) each person whose aggregate direct remuneration was more than $30,000, and who was a director at any time during the year or was one of the three highest paid officers of the Company; and (ii) all persons as a group who were directors or officers of the Company during the last fiscal year and the estimated annual retirement benefits under the Company's Retirement Pension Plan for each of the foregoing.

Name of Individual or Number of Persons in Group	Capacities in which Remuneration was Received	Aggregate Direct Remuneration(1)	Estimated Annual Retirement Benefits(2)
Benjamin M. Robinson	Chairman of the Board and Director.	$ 60,600.00(3)	None
Anthony M. Frank	President and Chief Operating Officer. (Elected 4-16-68)	36,898.77	None
Samuel N. Bergman	President of Bergman & Lefkow Insurance Agency, Inc., a subsidiary of the Company; Senior Vice President and Director of the Company.	60,600.00	None
Eugene A. Hegy, Jr.	Senior Vice President of the Company; President of its Futterman Real Estate Company division and Director.	50,600.00	$ 9,000
Richard K. McIntyre	Secretary-Treasurer and Director.	38,100.00	$ 7,308
Directors and Officers as a Group (19)		352,344.50(4)	$16,308

(1) Includes directors fees.

(2) Represents estimated benefits under Company's Retirement Pension Plan, assuming continued employment at present rate of compensation until retirement. On December 1, 1964, the Company adopted a non-contributory Retirement Pension Plan, qualified under the provisions of the Internal Revenue Code for qualified salaried employees between the ages of 25 and 55. Under the terms of the Plan, the normal retirement age is 65, subject to requirements for minimum periods of employment. In certain circumstances, the Plan provides for earlier retirement with reduced benefits. Retirement income, determined by a formula based entirely on compensation and length of service, is funded by the purchase of life insurance contracts and a contribution to a separate investment fund which is expected to provide the necessary amounts for retirement income payments at normal retirement date. Life insurance for the participant, if insurable, is provided during his employment.

(3) Includes a payment of $10,000 of deferred compensation relating to prior years, but does not include legal fees charged by the law firm of Robinson, Silverman, Pearce, Borden & Ball, of which Mr. Robinson is senior partner, in the aggregate amount of $107,750 for the year 1968. In January, 1967, the Company and Mr. Robinson agreed to an extension of Mr. Robinson's employment to 1970 at an annual remuneration of $50,000. It was also agreed that upon the termination of his employment he is to receive a deferred compensation of $2,083 per month for the same number of calendar months as are in the period from November, 1961, when Mr. Robinson assumed his present duties, to the date of such termination.

(4) Does not include legal fees charged by the law firm of Irell & Manella (of which Mr. Kaufman, a Director of Titan, is a partner) in the aggregate amount of $54,000 during the fiscal year ended December 31, 1968.

During 1961 the Company purchased 80% of the outstanding common stock of Bergman & Lefkow Insurance Agency, Inc., a subsidiary of the Company, from Mr. Samuel N. Bergman, who is a Senior Vice President and Director of the Company. In December 1968, the Company purchased the remaining 20% of the outstanding common stock of Bergman & Lefkow Insurance Agency, Inc. for a purchase price of $600,000 including interest at 4% per annum. The purchase price, which is subject to reduction in the event that the cumulative pre-tax earnings of Bergman & Lefkow Insurance Agency, Inc. do not equal $1,750,000 for the years 1968 through 1972, is payable in installments, the first of which was made in December of 1968 and the last of which is payable on March 31, 1973.

II

1969 STOCK OPTION PLAN

The Board of Directors and Management believe that the Company's employee stock option program has been worthwhile in attracting and retaining important personnel. The Company's 1966 Employee Stock Option Plan (pursuant to which options covering an aggregate of 191,000 shares are outstanding and options covering 44,400 shares remained available for grant on March 31, 1969) is, in the opinion of the Company's Board of Directors and Management, inadequate in various respects. Accordingly, on April 9, 1969, the Board of Directors voted to terminate the 1966 Plan and to adopt a new stock option plan (the "1969 Plan"), all subject to and effective upon the date of stockholder approval. A copy of the 1969 Plan is attached hereto as Exhibit A.

The purpose of the 1969 Plan is to secure for Titan and its stockholders the benefits arising from stock ownership by those selected executives and selected key employees of Titan and its affiliated companies who will be largely responsible for future growth and continued success. The Plan will provide a means whereby such key employees (including officers and directors who are employees) may be given an opportunity to purchase shares of Common Stock under options which will qualify as "qualified stock options" under Section 422 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964. At the present time the Company has no plans, arrangements, commitments or undertakings with respect to the granting of options under the 1969 Plan other than its normal anticipation of granting options in order to attract or retain key personnel.

Under the 1969 Plan (a) the total number of shares for which options may be granted is 150,000 shares of Titan Common Stock; (b) the minimum option price is 100% of fair market value at the date of grant, except for options which are granted upon assumption of or in substitution for existing options as described below; (c) the maximum term of the option is 5 years; (d) the Plan will terminate on April 9, 1979, unless it is sooner terminated by the Board of Directors; (e) options may be granted so as to be exercisable in installments on a cumulative basis, as the Stock Option Committee may determine; and (f) the Board of Directors may at any time amend the Plan and any option granted thereunder to the extent necessary to comply with applicable requirements of the Internal Revenue Code relating to stock options.

Defendant's Exhibit D

Under the 1969 Plan all key employees of Titan and its subsidiaries (including officers and directors who are employees) will be eligible for consideration for the grant of options but it is contemplated that only those who perform services of special importance to Titan in the management, operation and development of its business will be selected to receive options. Selection of the persons to be granted options will be made by a committee of the Board of Directors, the members of which will be chosen by the Board of Directors. Options granted under the Plan may not be exercised unless the optionee was at the time of such exercise or, except in the case of death, within thirty (30) days prior thereto, in the full-time employ of Titan or a subsidiary. If an optionee dies while he is employed by Titan, then, during the period of one year following his death, his option may be fully exercised as if the optionee had lived and remained in the employment of Titan for the balance of the option term by the person or persons to whom the optionee's rights under the option pass by Will or by the laws of descent and distribution. Options are nontransferable other than by Will or the laws of descent and distribution.

As indicated above, the stock options to be issued under the 1969 Plan are intended to be "Qualified Stock Options" within the meaning of Section 422(b) of the Internal Revenue Code of 1954, as amended. No taxable gain or loss for federal income tax purposes will be recognized by Titan or a recipient of an option by reason of the grant of a qualified stock option under the 1969 Plan or upon the exercise of such option, provided that the recipient of such option does not dispose of the stock issued upon exercise of the option for a period of three years after the issuance of such stock. If the recipient disposes of the stock acquired upon exercise of the option within such three-year period, he will realize taxable ordinary income for federal income tax purposes in the year of disposition in an amount equal to the difference between the fair market value of the stock on the date the option was exercised and the purchase price paid on the exercise of the option, and Titan will be entitled to a corresponding deduction for federal income tax purposes. In addition, the recipient will realize capital gain or loss for federal income tax purposes on such disposition to the extent (if any) that the proceeds of such disposition exceed or are less than the fair market value of the stock on the date the option was exercised.

The 1969 Plan provides that options may be granted in substitution of existing options or existing options may be assumed in connection with any acquisition of the assets or stock of another company in a transaction constituting a tax-free reorganization. In such event, options may be granted at prices which may be less than 100% of the fair market value of Titan's Common Stock on the date of their grant or assumption by Titan.

In the event that an option granted under the 1969 Plan expires or is terminated unexercised as to any shares optioned, such released shares may be optioned under the 1969 Plan. In the event that (i) the number of outstanding shares of Titan Common Stock shall be changed by reason of split-ups, combinations, reclassification of shares, stock dividends or otherwise or (ii) Titan Common Stock is converted into or exchanged for other shares as a result of any merger or consolidation (including a sale of assets) or other recapitalization, the total number of shares for which options may be granted, the number of shares then subject to options previously granted and the price per share payable upon exercise of such options shall be appropriately adjusted as determined by the Board of Directors so as to reflect such change.

Although the Board of Directors may at any time amend, suspend or terminate the 1969 Plan, no action of the directors may increase the aggregate maximum number of shares issuable without the consent of the shareholders. Neither the amendment, suspension nor termination of the 1969 Plan will, without the consent of the optionee involved, alter or impair any rights or obligations under any option theretofore granted.

No options have been or will be granted under the 1969 Plan until after its approval by the Company's stockholders.

The Board of Directors believes that the 1969 Plan should be adopted to replace the Company's existing stock option plan, principally for the following reasons:

(i) The Company's Management believes that a greater number of options should be available than is provided for by its existing stock option plan for the purpose of attracting and retaining key personnel.

(ii) In connection with the acquisition of the stock or assets of other companies, Titan may find it necessary or desirable to assume existing options of the acquired company. The existing employee stock option plan does not specifically provide for such assumption.

The approval of the 1969 Stock Option Plan as described above will require the affirmative vote of the holders of a majority of the outstanding shares of Titan Common Stock entitled to vote at the Annual Meeting. *The Board of Directors and Management of Titan recommend that you vote in favor of the proposed 1969 Stock Option Plan.*

As of March 31, 1969 there were outstanding options covering 191,000 shares of Titan's Common Stock under its 1966 Employee Stock Option Plan (the "1966 Plan") to 25 officers and key employees of Titan and its subsidiaries. The exercise prices of the outstanding options granted under the 1966 Plan range from $6.00 to $17.75 per share, representing approximately 100% of the market value of the Common Stock at the date of grant. The average of the bid and asked prices in the over-the-counter market for Titan's Common Stock on April 30, 1969 was $15.00. No monetary consideration is received by Titan for the grant of options under any of its Stock Option Plans. As of March 31, 1969, options to purchase 14,600 shares had been exercised under the 1966 Plan, and the outstanding options to purchase shares under the 1966 Plan expire as follows:

Year of Expiration	No. of Shares
1971	13,500
1972	4,000
1973	158,500
1974	15,000

Defendant's Exhibit D

The following tabulation shows as to certain directors and officers and as to all directors and officers as a group (i) the amount of options granted since the beginning of the fifth previous full fiscal year and through March 31, 1969 and (ii) the amount of shares subject to all unexercised options held as of March 31, 1969. No director or officer who has been granted options has exercised his options except for Richard K. McIntyre, who during the period May 27, 1968 through June 7, 1968, sold 16,500 shares of the Company's Common Stock at an average price of $18.25 per share. Mr. McIntyre exercised an option to purchase 6,000 shares of Common Stock at $6.00 per share on December 19, 1968, on which date the average of the bid and asked prices of the Company's Common Stock in the over-the-counter market was $17.00 per share.

	Options Granted 1964 to March 31, 1969		Unexercised Options March 31, 1969	
	Number of Options	Average Per Share Option Price	Number of Options	Average Per Share Option Price
Benjamin M. Robinson	25,000	$ 6.50	25,000	$ 6.50
Anthony M. Frank	25,000	6.50	25,000	6.50
Samuel N. Bergman	25,000	17.375	25,000	17.375
Eugene A. Hegy, Jr.	—	—	—	—
Richard K. McIntyre	15,000	6.00	9,000	6.00
All directors and officers as a group(9)	137,500	11.26	124,000	11.84

In addition, during the period from January 1, 1964 through March 31, 1969, employees were granted options for 75,000 shares at an average option price per share of $13.50.

OTHER BUSINESS

The management does not know of any business to be presented other than the matters set forth above, but if other matters properly come before the meeting, it is the intention of the proxies to vote in accordance with their best judgment on such matters.

By Order of the Board of Directors

RICHARD K. MCINTYRE
Secretary.

Defendant's Exhibit D

EXHIBIT A

1969 STOCK OPTION PLAN
OF
TITAN GROUP, INC.

1. PURPOSE.

The purpose of the 1969 Stock Option Plan (the Plan) is to secure for the Company and its stockholders the benefits arising from stock ownership by those selected executive and selected key employees of the Company and its affiliates who will be responsible for its future growth and continued success. The Plan will provide a means whereby such key employees (including officers and directors who are employees) of the Company and its affiliates may be given an opportunity to purchase shares of common stock of the Company under options which will qualify as "qualified stock options" under §422 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964. The term "affiliates" as used in the Plan means subsidiary corporations, as defined in §425(f) of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964.

2. AMOUNT OF STOCK.

Options qualifying as "qualified stock options" under §422 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, may be granted from time to time to selected executive and selected key employees of the Company or of its affiliates to purchase an aggregate of not more than 150,000 shares of the Company's common stock ($1.00 par value), which may consist in whole or in part of either authorized but unissued shares or issued shares reacquired by the Company. If an option is surrendered or for any other reason ceases to be exercisable in whole or in part, the shares which were subject to such option but as to which the option had not been exercised shall continue to be available under the Plan.

3. ELIGIBILITY AND PARTICIPATION.

Selected executive and selected key employees of the Company and its affiliates, including officers, whether or not directors of the Company, shall be eligible for selection to participate in the Plan. Directors of the Company or of its affiliates who are not also officers or employees are not eligible to participate in the Plan.

Nothing contained in this Plan, nor any option granted pursuant to the Plan, shall confer upon any employee any right to continue in the employ of the Company or its affiliates, nor limit in any way the right of the Company or any of its affiliates to terminate his employment at any time.

4. ADMINISTRATION.

(a) The Plan shall be administered by a committee (the Committee) consisting of not less than two directors of the Company to be appointed by the Board of Directors. The Board of Directors may from time to time remove members from, or add members to, the Committee. Vacancies on the Commit-

tee, however caused, shall be filled by the Board of Directors. The Committee shall select one of its members as Chairman, and shall hold meetings at such times and places as it may determine. A majority of the Committee shall constitute a quorum, and acts of the Committee at which a quorum is present, or acts reduced to or approved in writing by a majority of the members of the Committee, shall be the valid acts of the Committee. Subject to the express terms and conditions of the Plan, the Committee shall have full power to construe and interpret the Plan, to prescribe, amend and rescind rules and regulations relating to it, and to make all other determinations necessary or advisable for its administration. All determinations and interpretations made by the Committee shall be binding and conclusive on all participants in the Plan and on their legal representatives and beneficiaries.

(b) The Committee may from time to time determine which selected executive and selected key employees of the Company or of its affiliates shall be granted options under this Plan, and the number of shares for which an option or options shall be granted to each of them.

(c) The Committee shall report to the Board of Directors the names of selected executive and selected key employees granted options, the number of shares covered by each option and the terms and conditions of such option.

5. TERMS AND CONDITIONS OF OPTIONS.

Each option shall be evidenced by a Stock Option Agreement executed by the Company and the person to whom such option is granted and shall be subject to the following terms and conditions:

(a) **Price**—The purchase price under each option shall be fixed by the Committee, provided, however, that in no event shall such price be less than 100% of the fair market value of the Company's common stock on the date the option is granted.

(b) **Option Period**—Each option granted under the Plan shall expire on a date determined by the Committee, but in no event on a date later than five (5) years from the time the option is granted.

(c) **Exercise**—Each option shall be exercisable in such installments during the period prior to its expiration date as the Committee shall determine, provided that in the event the Employee-Optionee shall not in any given installment period purchase all of the shares which he is entitled to purchase in such installment period, his right to purchase any shares not purchased in such installment period shall continue until the expiration date or sooner termination of his option.

(d) **Nonassignability**—Options granted under the Plan shall be nontransferable by the Employee-Optionee, either voluntarily or by operation of law, otherwise than by Will or the laws of descent and distribution, and shall be exercisable during his lifetime only by him.

(e) **Termination**—All unexercised options shall terminate and become null and void if the Employee-Optionee ceases to be an employee of the Company (whether by resignation, retirement, dismissal, or otherwise), except that in the event of the termination of such employment for any reason other than the death of the Employee-Optionee, the Employee-Optionee may at any time within a period of thirty (30) days thereafter exercise the option granted thereby to the extent such option was exercisable by the Employee-Optionee on the date of the termination of such employment. In the event of the death of the Employee-Optionee while in the employ of the Company, the options granted to such Employee-Optionee shall become fully exercisable, to the sameextent and effect as if the Employee-Optionee had lived and remained in the employment of the Company for the balance of the option period, and may be

exercised immediately or any time within one (1) year after such death by the person or persons to whom the Employee-Optionee's rights under the option shall pass by Will or by the applicable laws of descent and distribution. This provision may not, however, be construed as extending the terminal date specified in the Stock Option Agreement itself.

(f) **Other Provisions**—The option may contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Committee and shall include such provisions and conditions as may be necessary to qualify the option as "qualified stock options" under §422 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, or as "restricted stock options" under §424 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964. Reference in the Plan to any section of the Internal Revenue Code of 1954, as amended by the Internal Revenue Act of 1964, shall be deemed to mean such section of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, as now in effect or as it may be hereafter amended from time to time.

6. ASSUMED OPTIONS.

In connection with any transaction to which §425(a) of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, is applicable, options may be granted pursuant hereto in substitution of existing options or existing options may be assumed whether, in either case, such existing options qualify as "qualified stock options" under §422 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, or as "restricted stock options" under §424 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964. Notwithstanding anything to the contrary contained in this Plan, options granted pursuant to this paragraph shall be at such prices and shall contain such terms, provisions and conditions as may be determined by the Committee and shall include such provisions and conditions as may be necessary to meet the requirements §425(a) of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1964, as now in effect or as it may be hereafter amended from time to time.

7. ADJUSTMENTS.

In the event that the shares of stock subject to the Plan shall be changed into or exchanged for a different number or kind of shares of stock or other securities of the Company or of another corporation (whether by reason of merger, consolidation, recapitalization, reclassification, split-up, combination of shares, or otherwise) or if the number of such shares of stock shall be increased through the payment of a stock dividend, then there shall be substituted for or added to each share of stock of the Company theretofore appropriated or thereafter subject or which may become subject to an option under this Plan, the number and kind of shares of stock or other securities into which each outstanding share of stock of the Company shall be so changed, or for which each such share shall be exchanged, or to which each such share shall be entitled, as the case may be. Outstanding options shall also be appropriately amended as to price and other terms as may be necessary to reflect the foregoing events. In the event there shall be any other change in the number or kind of the outstanding shares of the stock of the Company subject to the Plan, or of any stock or other securities into which such stock shall have been exchanged, then if the Committee shall, in its sole discretion, determine that such change equitably requires an adjustment in any option theretofore granted or which may be granted under the Plan, such adjustments shall be made in accordance with such determination.

Fractional shares resulting from any adjustment in options pursuant to this paragraph 7 may be settled in cash or otherwise as the Committee shall determine. Notice of any adjustment shall be given by

the Company to each holder of an option which shall have been so adjusted and such adjustment (whether or not such notice is given) shall be final, effective, binding and conclusive for all purposes of the Plan.

The Board of Directors shall have the power, in the event of any merger or consolidation of the Company with or into any other corporation, or the merger or consolidation of any other corporation into the Company, to amend all outstanding options to permit the exercise of all such options prior to the effectiveness of any such merger or consolidation and to terminate such options as of such effectiveness. If the Board of Directors shall exercise such power, all options then outstanding and subject to such requirement shall be deemed to have been amended to permit the exercise thereof in whole or in part by the grantee at any time or from time to time as determined by the Board of Directors prior to the effectiveness of such merger or consolidation and such options shall be deemed to terminate upon such effectiveness.

8. GOVERNMENTAL REQUIREMENTS.

No option granted pursuant to this Plan shall be be exercisable in whole or in part, and the Company shall not be obligated to sell any shares of stock subject to any such option, if such exercise and sale would, in the opinion of counsel for the Company, require registration of such shares under the Securities Act of 1933 (or other Federal or State statutes having similar requirements), as it may be in effect at that time, and the Company shall at such time not desire to so register such shares. Each option shall be subject to the further requirement that, if at any time the Committee shall determine in its discretion that the listing or qualification of the shares of stock subject to such option on any securities exchange or under any applicable law, or the consent or approval of any governmental regulatory body, is necessary or desirable as a condition of, or in connection with, the granting of such option or the issue of shares thereunder, such option may not be exercised in whole or in part unless such listing, qualification, consent or approval shall have been effected or obtained free of any conditions not acceptable to the Board of Directors. Notwithstanding the foregoing, the restrictions and conditions contained in this paragraph 8 shall be inoperative upon the occurrence of the registration with the Securities and Exchange Commission of the shares of stock subject to any such option and upon the occurrence of such other contingencies and under such circumstances as the Company in its discretion determines are adequate to protect the Company from liability for the issue or transfer of the shares subject to such option.

9. PROCEEDS FROM SALE OF STOCK.

Proceeds from the sale of stock pursuant to the options granted under the Plan shall be added to the general funds of the Company.

10. AMENDMENT, SUSPENSION, OR TERMINATION OF THE PLAN.

This Plan shall terminate ten (10) years from the date on which it is adopted by the Board of Directors. The Board of Directors may at any time amend, suspend, or earlier terminate this Plan. However, no action of the Board of Directors may increase the maximum aggregate number of shares to be offered for sale under options granted pursuant to this Plan, and neither the amendment, suspension, nor termination of the Plan shall, without the consent of the Optionee, alter or impair any rights or obligations under any option theretofore granted under the Plan. No option may be granted during any period of suspension, or after termination of the Plan.

DEFENDANT'S EXHIBIT E--KAUFMAN'S DIARY ENTRIES

EK
7-30-72

Tim v. Foggo

Analysis of Time Sheets

6A
6-21 - 6:00 Conf. with Tony Fusco
& Ben Robinson - in NY - [illegible]

10
9-18-68 - 8:00 - 5:30 phone calls
from Tony Fusco & to Foggo
(from LA)

9-27-68 4:30 - Conf. with Fusco & Gentile
re Foggo Dec (in LA)

9-30-68 12:00 - call to Foggo (from LA)

9-6-68 11:45 left for NY re Foggo Dec

9-6-68 2:30 (LA Time) - Conf. at BR's office
re Foggo Dec - with McAndrew &
Foggo
(notes in LA Conf. Log)

9-7-68 - in LA - Conf. with TF re Foggo Dec

10-15-68 10:30 - in LA - Call from BR re Foggo Dec

10-15-68 - 2:45 - Conf. with TF + GEG re Foggo
Dec

10-21-68 11:15 Working - Foggo Affy.
& calls to Foggo - with TF
(from LA)
5:30 Working - Affy.

10-22-72 8:15 - Working - Affy.

10-23-68 3:45 - call [illegible], call to TF

10-24-72 1:45 - call to Andrews

10-2-68 [illegible] Foggo -

10-2-68 5:30 [illegible] Foggo & TF
(from NY)

10-5-68 2:30 call from GEG

10-7-68 10:[illegible]

10-[illegible] [illegible]

Defendant's Exhibit E

10-12-65 - 3:15 ef. ATOB
10-14-65 - 11:15 ef. ATOB
10-15-65 CNY 4:00 ef. ATOR

1554

DEFENDANT'S EXHIBIT F

AGREEMENT OF SALE

by and among the

FAGGEN SHAREHOLDERS

and

TITAN GROUP, INC.

Defendant's Exhibit F

AGREEMENT OF SALE

THIS AGREEMENT OF SALE is made this _____ day of _____, 1968, by and among the shareholders listed on Exhibit "A" attached hereto (hereinafter collectively referred to as the "FAGGEN SHAREHOLDERS") and TITAN GROUP, INC., a Delaware corporation, having its principal office at 529 Fifth Avenue, New York, New York (hereinafter referred to as "TITAN").

RECITALS

This Agreement is made in light of the following circumstances:

(i) The FAGGEN SHAREHOLDERS own all of the issued and outstanding stock (as shown on Exhibit "A" attached hereto) of EMPLOYEE FUND SERVICES CORP., a _____ corporation, ACTUARIAL TABULATING CORP., a _____ corporation, HAROLD FAGGEN ASSOCIATES, INC., a _____ corporation, and _____ CORP., a _____ corporation, each with its principal place of business at 853 Broadway, New York, New York (hereinafter referred to collectively as the "FAGGEN COMPANIES"); and

(ii) The FAGGEN COMPANIES are in the business of providing actuarial and computer services and related activities; and

(iii) TITAN (together with its subsidiary corporations) is engaged in diverse real estate, insurance, service and related activities; and

(iv) TITAN and the FAGGEN SHAREHOLDERS believe that it would be in their mutual best interests, and in the interest of TITAN's shareholders, for TITAN to purchase and acquire all of the issued and outstanding stock of the FAGGEN COMPANIES.

Defendant's Exhibit F

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Transfer of Stock. For the consideration hereinafter provided, the FAGGEN SHAREHOLDERS shall sell, transfer, assign and convey to TITAN on the Closing Date (hereinafter defined) all of the issued and outstanding stock of each of the FAGGEN COMPANIES.

2. Consideration for the Stock of the FAGGEN COMPANIES. In consideration for said transfer and assignment by the FAGGEN SHAREHOLDERS, TITAN agrees to pay an aggregate purchase price of Five Million Five Hundred Thousand Dollars ($5,500,000.00), which will be represented by TITAN's 4% Convertible Installment Notes (the "Notes") in an aggregate principal amount equal to such purchase price and allocated among the FAGGEN SHAREHOLDERS in accordance with their interests as shown on Exhibit "A". The Notes shall be delivered to the FAGGEN SHAREHOLDERS on and shall be dated as of the Closing Date. The Notes shall bear interest at the rate of four percent (4%) per annum and shall be payable in two (2) installments, as set forth in and otherwise in the form attached hereto as Exhibit "B".

3. Representations and Warranties of the FAGGEN SHAREHOLDERS. The FAGGEN SHAREHOLDERS hereby jointly and severally represent and warrant the following (the truth and accuracy of each of which shall constitute a condition precedent to TITAN's obligations hereunder):

3.1 Financial Statements. Attached hereto and made a part hereof are the following exhibits:

Exhibit "C" - Balance Sheet and supporting schedules of each of the FAGGEN COMPANIES as at the end of the last fiscal year of each.

Exhibit "D" - Income Statement, together with supporting schedules, of each of the FAGGEN COMPANIES for their last fiscal years.

Exhibit "E" - Balance Sheet and supporting schedules of each of the FAGGEN COMPANIES as at September 30, 1968.

Exhibit "F" - Income Statement, together with supporting schedules, of each of the FAGGEN COMPANIES for the periods ended September 30, 1968.

Exhibits "C", "D", "E" and "F" (i) are in accordance with the respective books and records of the FAGGEN COMPANIES (except as stated therein to the contrary), (ii) set forth fairly each of their financial condition and results of operations as at the relevant dates thereof and for the periods covered thereby, all prepared in accordance with generally accepted accounting principles, (iii) contain and reflect all necessary adjustments for a fair presentation of the results of operations and financial condition for the periods covered by said financial statements, and (iv) with respect to each of the FAGGEN COMPANIES' contracts and commitments, contain and reflect reserves for all material liabilities and for all reasonably anticipated material losses and costs in excess of expected receipts.

3.2 Investment in Other Entities. There are no entities in which any of the FAGGEN COMPANIES has any debt (other than trade accounts receivable) or equity interest, or any right or option to acquire any such interest, other than as set forth on a schedule attached hereto as Exhibit "G".

3.3 Organization and Good Standing of FAGGEN COMPANIES. Each of the FAGGEN COMPANIES is a corporation duly organized and existing and in good standing under the laws of the respective state of its incorporation, and has full corporate power to carry on its business as now conducted, and is entitled to own or lease or operate its properties and assets now owned, leased or operated by it. Each is qualified to do business and is in good standing in each jurisdiction (including foreign countries) in which the nature of its business and/or the character of its properties make such qualification necessary.

3.4 (i) Outstanding Securities of FAGGEN COMPANIES. The authorized capital stock and number of shares issued and outstanding on the date hereof of each of the FAGGEN COMPANIES is listed on Exhibit "A" attached hereto. Other than as disclosed in exhibits to this Agreement, no shares of any of the FAGGEN COMPANIES are held by any of them in their treasury or otherwise. All of the outstanding stock of each of the FAGGEN COMPANIES is validly issued, fully paid and nonassessable.

(ii) Outstanding Options and Warrants. There are not, and on the Closing Date there will not be, any options, warrants or other rights outstanding for the purchase of, nor any securities convertible into, capital stock of any of the FAGGEN COMPANIES, whether issued, unissued or held in the treasury.

3.5 Absence of Certain Changes. Other than as disclosed in exhibits to this Agreement, since September 30, 1968, there has not been:

(i) any material adverse change in the

financial condition, assets, liabilities, or businesses of the FAGGEN COMPANIES or any of them;

(ii) any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting any of the FAGGEN COMPANIES' properties or businesses;

(iii) any material increase in the compensation payable or to become payable by any of the FAGGEN COMPANIES to any employees or agents, or any bonus payment or arrangement made to or with any thereof;

(iv) any payment by any of the FAGGEN COMPANIES of dividends or any distribution by any of them of any assets of any kind whatsoever to any of their stockholders in redemption or as the purchase price of any of their capital stock or in discharge or cancellation, whether in part or in whole, of any indebtedness (whether in payment of principal, interest or otherwise) owing to any of same;

(v) any mortgage, pledge or subjection to lien, charge or encumbrance of any kind of any of the FAGGEN COMPANIES' assets, tangible or intangible;

(vi) any sale or transfer of any of the FAGGEN COMPANIES' assets, or any cancellation of any of the debts or claims by any of the FAGGEN COMPANIES, except in the ordinary course of business;

(vii) any sale, assignment or transfer by any of the FAGGEN COMPANIES of any patents, trademarks, trade names, copyrights or other intangible assets;

(viii) any material amendment or termination of any material contract, agreement or license to which the FAGGEN COMPANIES or any of them is a party otherwise than in the ordinary course of business;

(ix) any commitment by any of the FAGGEN COMPANIES (through negotiations or otherwise) or any liability incurred to any labor organization actually or purportedly representing or attempting to represent any of the employees of the FAGGEN COMPANIES; or

(x) any event or condition of any character, materially and adversely affecting the businesses or properties of any of the FAGGEN COMPANIES.

3.6 Contracts. Attached hereto as Exhibit "H" is a schedule of all Material Contracts and Commitments containing a list of all such contracts and commitments to which any of the FAGGEN COMPANIES is a party or by which any is bound. For the purpose of this Paragraph 3.6, the term "Material Contracts and Commitments" shall be defined as (i) all contracts or commitments out of the ordinary course of business; (ii) all contracts and commitments involving an obligation which cannot or in reasonable probability will not be performed or terminated before January 31, 1969; (iii) all contracts or commitments affecting ownership of, title to, use of, or any interest in real estate; (iv) all patent licensing agreements and all other agreements and commitments with respect to patents, patent applications, trademarks, trade names, technical assistance, know-how, copyrights or other like items; (v) all bonuses, incentive compensation, pension, group insurance or employee welfare plans of any nature whatsoever; (vi) all collective bargaining agreements or other contracts or commitments to or with any labor unions or other employee representatives or groups of employees; (vii) employment contracts and all other contracts, agreements or commitments to or with individual employees or

agents extending for a period of more than six (6) months from the date hereof or providing for earlier termination only upon the payment of a penalty or equivalent thereof; (viii) all other contracts or commitments providing for payments based in any manner upon the sales, purchases or profits of the FAGGEN COMPANIES or any of them; (ix) any contract or commitment, whether in the ordinary course of business or not, which involves future payments, performance of services or delivery of goods and/or materials, to or by the FAGGEN COMPANIES or any of them of an aggregate amount or value in excess of Twenty-Five Thousand Dollars ($25,000.00). There has not been any material default in any obligation to be performed by any of the FAGGEN COMPANIES under any such Material Contract or Commitment listed on the said Exhibit "H", and none of the FAGGEN COMPANIES has waived or suffered the loss or extinguishment of any material right under any such Material Contract or Commitment.

3.7 (a) Properties. Attached hereto as Exhibit "I" is a schedule of all real property owned in fee by any of the FAGGEN COMPANIES, together with a summary of all other real property, including leaseholds and options to purchase real property, owned by the FAGGEN COMPANIES or any of them or in which they or any of them have any interest, containing an accurate description thereof and an accurate summary of the principal terms of all leases and options to purchase real property, including the names of its lessors and persons or entities against whom options to purchase real property are or will be exercisable. Each of the FAGGEN COMPANIES has good and marketable title to all of its properties and assets (including but not limited to those reflected in their

respective Balance Sheets as at September 30, 1968, except as since sold or otherwise disposed of in the ordinary course of business), all free and clear of all covenants, conditions, easements, liens, charges and encumbrances other than as set forth in exhibits attached to this Agreement, and other than liens for property taxes not delinquent. The plants, structures, leasehold improvements, equipment, and other tangible assets of each of the FAGGEN COMPANIES are, to the knowledge and belief of the FAGGEN SHAREHOLDERS, in good operating condition and repair, subject only to ordinary wear and tear. There has been no failure of any of the FAGGEN COMPANIES to comply in all material respects with all laws, regulations and orders applicable to its properties and businesses which has not been, or by the Closing Date will not have been, remedied without material adverse effect upon the businesses and/or assets of the FAGGEN COMPANIES.

(b) Foreign Assets. The FAGGEN COMPANIES have no interests in any assets, real or personal, tangible or intangible, located outside of the continental limits of the United States, including stock, securities, or investments in, claims against, or receivables from any entities or persons with substantial properties or business so located.

3.8 Absence of Undisclosed Liabilities. Except as specifically set forth in exhibits to this Agreement, none of the FAGGEN COMPANIES is obligated for, nor are any of their assets or properties subject to, any liabilities or materially adverse obligations, whether or not such liabilities are normally shown or reflected on a balance sheet prepared in a manner consistent with generally accepted accounting principles, other than liabilities or obligations arising in the

ordinary course of business since September 30, 1968, none of which are materially adverse. None of the FAGGEN COMPANIES is in default in respect to any material term or condition of any indebtedness or liability (including trade payables). There are no facts in existence on the date hereof and known to any of the FAGGEN SHAREHOLDERS which might reasonably serve as the basis for any material liabilities or obligations of the FAGGEN COMPANIES or any of them not disclosed in this Agreement or in exhibits hereto.

3.9 Outstanding Indebtedness. Attached hereto as Exhibit "J" is a true and complete list of all indebtedness (other than trade accounts payable and normal accruals of expenses and taxes arising in the ordinary course of business with respect to which no assets have been pledged or otherwise hypothecated, voluntarily or involuntarily), of each of the FAGGEN COMPANIES or with respect to which any of their properties or assets are subject, including a description of all of the terms thereof, and a description of all properties or assets pledged, mortgaged or otherwise hypothecated (voluntarily or involuntarily) as security therefor.

3.10 Patents, Trademarks, etc.

(i) Attached hereto as Exhibit "K" is a summary of patents, patent applications, trade names, trademarks, trademark registrations and applications therefor, copyrights, licenses, franchises and other assets of like kind, any interest in which is owned by, or registered in the name of, any of the FAGGEN COMPANIES. Except as specified on Exhibit "K", the FAGGEN COMPANIES own and/or possess licenses or rights to use (without payment of royalties, except to the extent set forth in agreements enumerated in said Exhibit "K")

all patents, trade names, trademarks, copyrights, inventions and processes now used in the conduct of their businesses; and such licenses or rights have to date been adequate for the conduct of said businesses. Except as disclosed in exhibits to this Agreement, such patents, trade names, trademarks, copyrights, inventions and processes do not conflict with the asserted rights of others. Each of the FAGGEN COMPANIES has, in all material respects, performed all the obligations required to be performed by it to date and is not in default in any material respect under any of the foregoing.

(ii) The FAGGEN SHAREHOLDERS have no interest in any patents, patent applications, trade names, trademarks, trademark registrations and applications therefor, copyrights, licenses, franchises or other assets of like kind which infringe upon, conflict with, relate to improvements or modifications of, or relate to any invention, design, process or improvement which may supplement, substitute for or compete with any patents, trade names, trademarks, copyrights, inventions or processes now used or potentially usable by the FAGGEN COMPANIES or any of them in the conduct of their businesses.

3.11 Tax Returns and Audits.

(i) Each of the FAGGEN COMPANIES has filed all income, franchise and other tax returns required to be filed (including those owing to the United States or other government or any subdivisions thereof) by it by the date hereof. The provisions for federal, foreign, state, county and local taxes reflected on its financial statements and exhibits attached hereto are adequate to cover its liabilities for such taxes with respect to the period then ended and for all prior periods.

(ii) the FAGGEN SHAREHOLDERS have heretofore delivered to TITAN copies of the federal, state and foreign tax returns for the taxable years ending in 1964 through 1968 for each of the FAGGEN COMPANIES, constituting complete and accurate representations of their respective tax liabilities for said years and accurately reflecting their position with respect to future tax liabilities by accurately setting forth all relevant items, including the tax bases of all assets, to the extent required to be set forth in said returns.

(iii) Each of the FAGGEN COMPANIES has not, and on the Closing Date shall not have, consented pursuant to the provisions of Section 341(f) of the Internal Revenue Code of 1954, as amended, to have the provisions of Section 341(f)(2) apply to the transfers of stock pursuant to this Agreement.

(iv) Notwithstanding anything to the contrary in this Agreement or any exhibits hereto, each of the FAGGEN COMPANIES has no liabilities for any taxes with respect to current periods, or any prior periods, pursuant to any section of the Internal Revenue Code of 1954, as amended (or comparable provisions of any state income or franchise tax law), other than corporate income taxes (or comparable state franchise taxes) due pursuant to Section 11 (including Section 1562) of said Internal Revenue Code of 1954, as amended (or comparable state income or franchise tax laws).

3.12 Litigation. Except as set forth in Exhibit "L" attached hereto, as of the date hereof, none of the FAGGEN COMPANIES nor any of the FAGGEN SHAREHOLDERS has been served with any summons, complaint or notice to arbitrate, and the FAGGEN SHAREHOLDERS have no knowledge of any suit, equitable or legal, administrative, arbitration or other proceeding

pending or threatened against any of the FAGGEN COMPANIES, which relates to any of the businesses, properties or assets of the FAGGEN COMPANIES.

3.13 Labor Problems. Except as disclosed in exhibits to this Agreement, each of the FAGGEN COMPANIES has not been a party to any contract or agreement with a labor union or any local or subdivision thereof actually or purportedly acting for or on behalf of any of the employees of the FAGGEN COMPANIES, nor has any of them been charged with any unresolved unfair labor practices, nor do any of the FAGGEN SHAREHOLDERS have knowledge of any present union organizing activity among any of the respective employees of the FAGGEN COMPANIES.

3.14 Insurance Coverage. Each of the FAGGEN COMPANIES maintains policies of fire, liability, warranty, use and occupancy and other forms of insurance, covering its properties and assets, in amounts and against such losses and risks as are generally maintained for comparable businesses and properties, and valid policies for such insurance will be outstanding and duly in force on the Closing Date.

3.15 Interests in Competitors, Suppliers, Customers, etc. Except as disclosed in Exhibit "M", none of the FAGGEN SHAREHOLDERS or members of their immediate families owns, directly or indirectly, individually or collectively, a material interest in any corporation, partnership, firm or asosication which (i) is a competitor, potential competitor, customer or supplier of any of the FAGGEN COMPANIES or (ii) has an existing contractual relationship with any of the FAGGEN COMPANIES, including but not limited to lessors of real or personal property leased to any of the FAGGEN COMPANIES and entities against whom rights or options are exercisable by an of the FAGGEN COMPANIES.

3.16 Indebtedness to Officers, Directors and Stockholders. Other than as set forth in Exhibit "N", none of the FAGGEN COMPANIES is now indebted, nor shall be indebted on the Closing Date, to any of those persons who are on the date hereof stockholders, officers and/or directors of the FAGGEN COMPANIES or to their respective spouses or children in any amount whatsoever other than for compensation for services rendered.

3.17 Articles of Incorporation and By-Laws. The FAGGEN SHAREHOLDERS have heretofore delivered to TITAN true, accurate and complete copies of the Articles of Incorporation and By-Laws, together with all amendments to each of same, of each of the FAGGEN COMPANIES. Nothing contained therein prevents or adversely affects the consummation of the transactions contemplated by this Agreement.

3.18 Corporate Minutes. The FAGGEN SHAREHOLDERS have heretofore furnished (or will hereafter furnish) to TITAN for its examination the minute books of each of the FAGGEN COMPANIES containing complete and accurate records of any and all proceedings and actions at all meetings of their stockholders and Boards of Directors required to be set forth in such minutes.

3.19 Onerous Agreements, etc. Each of the FAGGEN COMPANIES is not a party to, or otherwise bound by, any contracts, commitments or undertakings (contractual or otherwise) which are materially adverse, onerous or otherwise harmful to its business, properties or assets, except as disclosed herein or in exhibits to this Agreement.

3.20 Brokerage and Finder's Fees. The FAGGEN SHAREHOLDERS hereby warrant and represent that neither they

nor any of the FAGGEN COMPANIES, nor any of their employees or agents, have incurred any liability to any broker, finder or agent for any brokerage fees, finder's fees or commissions with respect to the transactions contemplated by this Agreement, which liability will diminish the assets and properties of any of the FAGGEN COMPANIES or will affect the shares transferable to TITAN hereunder, or which liability may be asserted against TITAN or any of the FAGGEN COMPANIES.

3.21 Qualification in Other States. Attached hereto as Exhibit "O" is an accurate and complete list of all states and foreign countries in which any of the FAGGEN COMPANIES is qualified to do business.

3.22 Material Misstatements or Omissions. No representations or warranties by the FAGGEN SHAREHOLDERS in this Agreement nor any document, statement, certificate or schedule furnished or to be furnished to TITAN pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact necessary to make the statements or facts contained therein not misleading.

3.23 Representations and Warranties at Closing. Except as expressly herein otherwise provided, the representations and warranties of the FAGGEN SHAREHOLDERS set forth in this Agreement shall be true on and as of the Closing Date as though such representations and warranties were made on and as of such time.

4. Obligations and Covenants of the FAGGEN SHAREHOLDERS. The FAGGEN SHAREHOLDERS hereby jointly and severally covenant and agree as follows (the fulfillment of each of such covenants and agreements hereby constituting a condition precedent

to TITAN's obligations hereunder):

4.1 Conduct of Business. Between the date hereof and the Closing Date, the FAGGEN SHAREHOLDERS agree to use their best efforts (i) to have the businesses of each of the FAGGEN COMPANIES conducted diligently and only in the ordinary course, and (ii) (without making any commitment on behalf of or which would be binding upon TITAN) to preserve each of the FAGGEN COMPANIES' business organization intact, to keep available to each of the FAGGEN COMPANIES and for the benefit of TITAN its present officers and employees and to preserve its relationships with suppliers, customers and others having business relations with it.

4.2 Tax Returns and Reports. The FAGGEN SHAREHOLDERS agree to use their best efforts to have income, franchise, sales and other tax returns and reports of each of the FAGGEN COMPANIES which have not yet been filed prior to the date hereof prepared by each of the FAGGEN COMPANIES but not filed without prior examination by and approval of TITAN. The FAGGEN SHAREHOLDERS agree to use their best efforts to have each of the FAGGEN COMPANIES obtain all extensions of time from Governmental authorities necessary to effectuate this provision.

4.3 Accounts Receivable. Within twenty (20) days from the date hereof, the FAGGEN SHAREHOLDERS shall deliver to TITAN a schedule of accounts receivable of each of the FAGGEN COMPANIES as at September 30, 1968. Said schedule shall contain a list of all said accounts receivable, properly aged in accordance with the date each account receivable originally came into existence, without taking into account any renewals thereof.

4.4 Salaried Employees. On or prior to the Closing Date, the FAGGEN SHAREHOLDERS shall deliver to TITAN a true and complete list as of the date of this Agreement, showing the names of all persons to whom any of the FAGGEN COMPANIES has paid or is obligated to pay any salary or other compensation for the calendar year 1968, their annual rate of compensation and the nature of their duties entitling them to such compensation. Said list shall contain all of the employees of each of the FAGGEN COMPANIES except those whose compensation is based upon an hourly or piece work rate. The FAGGEN SHAREHOLDERS shall not allow any of the FAGGEN COMPANIES to increase the rate of compensation payable or to become payable to any of its officers, employees or agents over the rate being paid to them at the date hereof, other than normal increases in the ordinary course.

4.5 Banks, etc. On or prior to the Closing Date, the FAGGEN SHAREHOLDERS shall deliver to TITAN the name of each bank, savings and loan, or other financial institutions, in which any of the FAGGEN COMPANIES has an account or safe deposit box, and the names of all persons authorized to draw thereon or to have access thereto.

4.6 Continuation of Insurance. From and after the date hereof and until the Closing Date, the FAGGEN SHAREHOLDERS shall cause each of the FAGGEN COMPANIES to continue to carry its existing insurance policies subject only to variation in amounts required by the ordinary operations of its businesses. At the request of TITAN and at its sole expense, the amount of any of the FAGGEN COMPANIES' insurance against fires, liabilities, loss of use and occupancy, and other risks shall be obtained or increased by such amount or

amounts as TITAN shall specify.

4.7 Contracts. The FAGGEN SHAREHOLDERS shall not allow any of the FAGGEN COMPANIES to enter into or become a party to any contract or commitment under which the value of services to be performed by or for any of the FAGGEN COMPANIES or the cost of goods to be sold to or by any of the FAGGEN COMPANIES under any one such contract or commitment may exceed _____ Dollars ($) without the prior written consent of TITAN.

4.8 Capital Transactions. The FAGGEN SHAREHOLDERS shall not allow the FAGGEN COMPANIES to make any commitment for capital expenditures, other than for ordinary repairs and maintenance and minor plant additions and replacements and other than commitments for purchase of machinery and equipment not exceeding an aggregate of _____ Dollars ($) without the prior written consent of TITAN.

4.9 Distribution to Stockholders. The FAGGEN SHAREHOLDERS hereby agree that between the date hereof and the Closing Date, they will not allow any of the FAGGEN COMPANIES to pay any dividend or make any other distribution or payment with respect to any of their capital stock or to redeem, purchase or otherwise acquire any of their capital stock.

4.10 Issuance of Capital Stock. From and after the date hereof and until the Closing Date, the FAGGEN SHAREHOLDERS shall not allow any of the FAGGEN COMPANIES to issue any additional securities or shares of capital stock, or issue or grant any options or rights with respect to the same, for consideration or otherwise.

4.11 Pending and Subsequent Actions. The FAGGEN

SHAREHOLDERS will cooperate, and will use their best efforts to have the officers, directors and other employees of each of the FAGGEN COMPANIES cooperate, with TITAN at its request and expense on and after the Closing Date in endeavoring to effect the collection of all receivables and other items owing to each of the FAGGEN COMPANIES, in connection with actions, proceedings, arrangements or disputes relating to the adjustment of federal income and other taxes of any of the FAGGEN COMPANIES for all periods prior to the Closing Date and in connection with any other actions, proceedings, arrangements or disputes involving any of the FAGGEN COMPANIES and/or TITAN based upon contracts, arrangements or acts of any of the FAGGEN COMPANIES which were in effect or occurred on or prior to the Closing Date.

4.12 Patent Improvements. The FAGGEN SHAREHOLDERS agree that, for the life of any patents owned by any of the FAGGEN COMPANIES and during the time when any patent applications owned by any of the FAGGEN COMPANIES remain pending, and during the life of any patents related thereto, or any divisions, continuations, continuations in part or reissues of any such patents, they will forthwith disclose and assign and transfer to the FAGGEN COMPANIES and/or TITAN, without further consideration, any future developments, improvements or modifications by them of the inventions covered by any such patents or applications.

4.13 Covenant Not to Compete. The FAGGEN SHAREHOLDERS agree that on the Closing Date each of them shall deliver to TITAN an executed Covenant Not to Compete covering a term and containing other conditions and provisions as indicated on Exhibit "P" attached hereto.

Defendant's Exhibit F

TITAN and the FAGGEN SHAREHOLDERS acknowledge that the Covenants Not to Compete to be delivered pursuant hereto were not separately bargained for, and represent merely an incident to the continuation of the goodwill of the FAGGEN COMPANIES after the transfer of their stock to TITAN. TITAN and the FAGGEN SHAREHOLDERS hereby agree that no part of the consideration payable by TITAN hereunder is allocable to such covenants.

4.14 Resignation of Officers and Directors. On or prior to the Closing Date, the FAGGEN SHAREHOLDERS shall deliver to TITAN executed resignations effective the Closing Date of and from each of the officers and directors of each of the FAGGEN COMPANIES.

5. Representations and Warranties of TITAN. TITAN hereby represents and warrants the following (the truth and accuracy of each of which shall constitute a condition precedent to the FAGGEN SHAREHOLDERS' obligations hereunder):

5.1 Financial Statements. Attached hereto and made a part hereof, marked Exhibit "O", are consolidated financial statements for TITAN and its subsidiaries as at and for the fiscal year ended December 31, 1967, and as at and for the six (6) months ended June 30, 1968.

The foregoing financial statements (i) are in accordance with the books and records of TITAN and its subsidiaries respectively, (ii) set forth fairly TITAN's and its subsidiaries' consolidated financial condition and the consolidated results of their operations as at the relevant dates thereof and for the periods covered thereby, all prepared in accordance with generally accepted accounting principles, (iii) contain and reflect all necessary adjustments for a fair presentation of

the results of operations and financial condition for the periods covered by said financial statements, and (iv) with respect to any of TITAN's contracts and commitments, contain and reflect reserves for all material liabilities and for all reasonably anticipated material losses and costs in excess of expected receipts.

5.2 Organization and Good Standing of TITAN and its Subsidiaries. TITAN is a corporation duly organized and existing and in good standing under the laws of the State of Delaware. Each of the material subsidiaries of TITAN is a corporation duly organized and existing and in good standing under the laws of the respective state of its incorporation. TITAN and its subsidiaries have full corporate power to carry on their respective businesses and to own and operate their respective properties and assets now owned or operated by them.

5.3 Authority of TITAN. The execution of this Agreement by TITAN and its delivery to the FAGGEN SHAREHOLDERS have been duly authorized by the Board of Directors of TITAN, and no further corporate action will be necessary on the part of TITAN to make this Agreement valid and binding upon TITAN in accordance with its terms.

5.4 Absence of Certain Changes. Since June 30, 1968, there has not been any material adverse change in the financial condition, assets or business of TITAN and its subsidiaries other than changes in the ordinary course of business.

5.5 Issuance of Notes. The issuance by TITAN of the Notes has been duly authorized by all necessary corporate action on the part of TITAN and the Notes, when executed

and delivered to the FAGGEN SHAREHOLDERS in accordance with the terms and conditions of this Agreement, shall constitute valid and legally binding obligations of TITAN, enforceable in accordance with their terms, except as limited by bankruptcy, insolvency, reorganization or similar laws, and shall be entitled to all of the benefits provided by this Agreement.

5.6 Common Stock of TITAN to be Issued. The shares of Common Stock issuable upon any conversion of the Notes will, when issued in accordance with the terms of said Notes, be validly issued and outstanding, fully paid and nonassessable.

5.7 Material Misstatements or Omissions. No representations or warranties by TITAN in this Agreement nor any document, statement, certificate or schedule furnished or to be furnished to the FAGGEN SHAREHOLDERS pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

5.8 Representations and Warranties at Closing. Except as expressly herein otherwise provided, the representations and warranties of TITAN set forth in this Agreement shall be true on and as of the Closing Date as though such representations and warranties were made on and as of such time.

6. Federal Securities Act. The parties hereto understand that the TITAN Notes and stock (issuable upon conversion of the Notes) to be issued pursuant to the provisions of this Agreement will not be registered under the Securities Act of 1933, as amended (hereinafter referred to as the "Securities

Act"), in reliance upon the exemption contained in Section 4(2) of the Securities Act.

6.1 Letters of Representation.

(a) Each of the FAGGEN SHAREHOLDERS does hereby represent, warrant and certify that the TITAN Notes and the shares of stock issuable upon conversion of the Notes received pursuant to the terms of this Agreement shall be acquired in good faith for investment and not with a view to a distribution or resale of any of same. Each does further certify that he or she does not now have in mind (and on the Closing Date will not have in mind) the acquisition of said Notes and shares of stock issuable upon conversion of the Notes for sale or other disposition on the occurrence or non-occurrence of any predetermined event, and each understands that TITAN is relying upon the truth and accuracy of the representations and warranties herein contained in issuing the same without first registering the same under the Securities Act. The FAGGEN SHAREHOLDERS jointly and severally agree to indemnify and hold TITAN harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of any of the same in violation of the Securities Act. Each of the FAGGEN SHAREHOLDERS agrees to deliver to TITAN on the Closing Date, and on each date when he shall receive shares of TITAN stock referable to his conversion of Notes, investment letters restating all of the foregoing as of such date.

(b) TITAN hereby represents, warrants and certifies that the shares of stock of each of the FAGGEN COMPANIES received pursuant to the terms of this Agreement

shall be acquired in good faith for investment and not with a view to a distribution or resale of said shares. TITAN does further certify that it does not now have in mind (and on the Closing Date will not have in mind) the acquisition of said stock for sale or other disposition on the occurrence or non-occurrence of any predetermined event, and TITAN understands that the FAGGEN SHAREHOLDERS are relying upon the truth and accuracy of the representations and warranties herein contained in transferring said shares without first registering the same under the Securities Act. TITAN agrees to indemnify and hold the FAGGEN SHAREHOLDERS harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of the shares of stock of any of the FAGGEN COMPANIES in violation of the Securities Act, as amended.

6.2 Transfer Without Registration. None of the FAGGEN SHAREHOLDERS shall transfer any of the TITAN Notes or shares of stock issuable upon conversion of the Notes received by them pursuant to the provisions of this Agreement without first having complied with each of the following conditions:

(i) TITAN shall have received written notice of the proposed transfer, setting forth the circumstances and details thereof; and

(ii) TITAN shall have received a written opinion from the law firm of _____, (or another law firm satisfactory to TITAN), as well as an opinion from its own counsel, specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions

offer for registration at least five thousand (5,000) shares; (iii) to accept a reduction, pro rata with all other selling stockholders in the number of shares to be included in said registration if such reduction is deemed necessary or advisable by such underwriters in order to enable TITAN to sell the full number of shares which it desires to sell; and (iv) to pay underwriters' commissions and/or discounts and any and all expenses of their own counsel which they may employ, in connection with any registration, allocable to such shares. TITAN's obligations under this Paragraph 6.4 shall in any event terminate two years after the issuance of the last shares (if any) issued upon conversion of the Notes.

6.5 Registration Procedures. If TITAN is required by the provisions of Paragraph 6.4 to use its best efforts to effect the registration of any of its securities under the Securities Act of 1933, it will, as expeditiously as possible,

A. prepare and file with the Commission a Registration Statement with respect to such securities and use its best efforts to cause such Registration Statement to become and remain effective;

B. prepare and file with the Commission such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act of 1933 with respect to the sale or other disposition of all securities covered by such Registration Statement whenever the Seller or Sellers of such securities shall desire to sell or otherwise dispose of same;

of the Securities Act and Rules and Regulations promulgated thereunder.

6.3 Legend. It is understood and agreed by the parties hereto that the Notes and any shares issuable upon conversion of the Notes, shall bear a legend indicating their status under the Federal Securities Laws and referring to the pertinent provisions of this Agreement bearing on their transferability.

6.4 Incidental Registration Rights. At each such time as TITAN shall undertake to register for sale by it any shares of its Common Stock under the Securities Act as then in effect on Form S-1 or its then equivalent, TITAN will give to each of the FAGGEN SHAREHOLDERS who shall then still own Notes or shares of TITAN Common Stock issued upon conversion of Notes written notice (by first-class mail) of its intention in that regard, and will use its best efforts, at TITAN's sole cost and expense (except as set forth below), to effect the registration under said Act, if such registration is permissible, of shares acquired or to be acquired on exercise of the conversion rights of the Notes as may be specified by written notice by each such shareholder delivered to TITAN at its principal office within ten (10) days after the receipt of TITAN's notice of its intention to so register any of its Common Stock; provided, however, that TITAN's obligation to register any of said shares shall be contingent upon the agreement by the FAGGEN SHAREHOLDERS: (i) to sell such shares in the manner adopted by and through the underwriter or underwriters acting in connection with such registration and that TITAN's obligation shall be further contingent upon such underwriters' willingness to include such shares within such registration; (ii) to

C. furnish to each Seller such numbers of copies of Prospectuses, including preliminary Prospectuses, in conformity with the requirements of the Securities Act of 1933, and such other documents, as such Seller may reasonably request in order to facilitate the public sale or other disposition of the securities owned by such Seller; and

D. use its best efforts to register or qualify the securities covered by such Registration Statement under such other securities or blue sky laws of such jurisdictions as each Seller shall reasonably request, and do any and all other acts and things which may be necessary or advisable to enable such Seller to consummate the public sale or other disposition in such jurisdiction of the securities owned by such Seller, except that TITAN shall not for any such purpose be required to qualify to do business as a foreign corporation in any jurisdiction wherein it is not so qualified.

TITAN shall not be required to keep such Registration Statement in effect or to keep up-to-date or to supplement any Prospectus issued in connection with any such Registration Statement more than nine (9) months after the effective date of the Registration Statement involved; provided, however, that in any event TITAN's obligation to keep such Registration Statement in effect and to keep up-to-date or to supplement any Prospectus shall be conditioned upon the furnishing to TITAN by the Seller of an undertaking by the Seller that such Securities will be sold to underwriters for a public offering as soon as practicable after the Registration Statement shall become effective or such Securities

shall be offered in an orderly fashion and by methods designed reasonably to assure that such Securities will be publicly distributed within sixty (60) days after the Registration Statement shall become effective.

7. Obligations and Covenants of TITAN. TITAN hereby covenants and agrees as follows (the fulfillment of such covenants and agreements hereby constituting conditions precedent to the FAGGEN SHAREHOLDERS' obligations hereunder):

7.1 Officers' Certificate. TITAN shall deliver on the Closing Date a certificate executed by its President or Vice President and Secretary or Treasurer to the effect that, to their best knowledge and belief, all of the representations and warranties of TITAN contained in this Agreement are true and accurate, and that TITAN has not suffered any material adverse change in its financial position since June 30, 1968.

7.2 Reservation of Shares. TITAN shall, by the Closing Date, reserve and shall thereafter keep reserved a sufficient number of shares of its Common Stock for the purpse of enabling, at all relevant times, the conversion of the Notes.

8. Opinion of TITAN's Counsel. As a condition precedent to the FAGGEN SHAREHOLDERS' obligations hereunder, TITAN shall deliver to the FAGGEN SHAREHOLDERS an opinion of its counsel, Robinson, Silverman, Pearce, Borden and Ball, dated the Closing Date, stating (i) TITAN is a corporation

duly organized and existing and in good standing under the laws of the state of its incorporation; (ii) this Agreement has been duly and validly authorized, executed and delivered by TITAN and is valid and binding upon TITAN and its stockholders in accordance with its terms; (iii) the issuance and delivery of TITAN's Notes to the FAGGEN SHAREHOLDERS have been duly authorized by all necessary corporate action on the part of TITAN and the Notes, when executed and delivered in accordance with the terms and conditions of this Agreement, will constitute valid and legally binding obligations of TITAN, enforceable in accordance with their terms, except as limited by bankruptcy, insolvency, reorganization and similar laws, and (iv) the issuance and delivery of TITAN's Notes and the issuance of TITAN's Common Stock upon conversion of the Notes, have been duly authorized by the stockholders of TITAN (to the extent necessary) and such stock issuable upon conversion will, when issued, be validly issued, fully paid and nonassessable. In rendering their opinion, counsel for TITAN may rely as to factual matters on certificates of officers of TITAN and such other evidence as they may deem necessary or desirable, including, without limitation, opinions of associate counsel.

9. Opinion of FAGGEN SHAREHOLDERS' Counsel. As a condition precedent to TITAN's obligations hereunder, the FAGGEN SHAREHOLDERS shall deliver to TITAN an opinion of their counsel, _____, dated the Closing Date, stating: (i) each of the FAGGEN COMPANIES is duly organized and existing and in good standing under the laws of its respective state of incorporation and, to the best of said counsel's knowledge, is qualified to do business in

other jurisdictions (including foreign countries) in which the nature of its business or the character of its properties makes such qualification necessary, or if not so qualified, is not subject to any material liability for its failure to qualify, and has full corporate power to carry on its business and to own and operate its properties and assets now owned or operated by it; (ii) the authorized and outstanding capitalization of each of the FAGGEN COMPANIES on the Closing Date is as specified pursuant to Paragraph 3.4 above; (iii) except as may be specified by such counsel, they do not know of any litigation, proceeding or governmental investigation pending or threatened against or relating to any of the FAGGEN COMPANIES or any of their properties or businesses or with respect to any of the capital stock of the FAGGEN COMPANIES; (iv) all proceedings required by law or by the provisions of this Agreement to be taken by the FAGGEN SHAREHOLDERS in connection with the transactions provided for by this Agreement have been duly and validly taken; (v) to the best of such counsel's knowledge, the consummation of the transactions contemplated by this Agreement will not result in a breach of any of the provisions of, nor will it constitute a default under, nor will it invalidate or give any party a right to cancel or terminate, any agreement or instrument to which any of the FAGGEN COMPANIES is a party; (vi) such counsel has no knowledge of any defects in the title to the assets and properties of, or to the capital stock of, the FAGGEN COMPANIES; and (vii) as to such other matters as TITAN or its counsel may reasonably request. In rendering their opinion, counsel for the FAGGEN SHAREHOLDERS may rely as to factual matters on certificates of the FAGGEN SHAREHOLDERS or of officers of any of the FAGGEN COMPANIES and upon such other evidence as they may deem necessary or

desirable, including, without limitation, opinions of associate counsel.

10. Other Acquisitions, etc., by TITAN. It is understood and agreed by the FAGGEN SHAREHOLDERS, that, notwithstanding anything to the contrary herein contained, TITAN may issue prior to or subsequent to the Closing Date additional shares of its capital stock (whether Common or Preferred) or any other securities (whether convertible into capital stock or not), options or warrants, pursuant to a bona fide sale thereof, or with respect to the exercise of any stock options, or in connection with the acquisition of assets of, or stock of, other corporations, partnerships or proprietorships which TITAN may desire to acquire, or in any other bona fide and arm's-length transaction, and that any such sale, issuance or acquisition shall not affect the terms hereof.

11. Closing. The Closing of the transactions covered by this Agreement shall take place at such time and place as shall be determined by the parties hereto (the "Closing Date"), but in any event on or prior to November 30, 1968. On the Closing Date, the FAGGEN SHAREHOLDERS shall deliver to TITAN certificates representing their shares of stock in each of the FAGGEN COMPANIES together with assignments, and other good and sufficient instruments of transfer and conveyance, all such documents as, in the opinion of TITAN's counsel shall be effective to vest in TITAN good and marketable title, subject to no liens, encumbrances, or charges of any kind whatsoever to the stock of the FAGGEN COMPANIES to be transferred, assigned and conveyed, as provided in this Agreement. TITAN shall deliver to the FAGGEN SHAREHOLDERS, upon receipt of the foregoing, the Notes registered in such names and in such denominations as provided in Paragraph 2 above.

From time to time, at TITAN's request, whether on or after the Closing Date and without further consideration, the FAGGEN SHAREHOLDERS shall execute and deliver such further instruments of conveyance and transfer and take such other action as TITAN reasonably may require more effectively to convey and transfer to TITAN the FAGGEN COMPANIES' stock to be transferred and assigned hereunder.

12. Survival of Representations.

12.1 All statements contained in any certificate or other instruments delivered by or on behalf of TITAN or the FAGGEN SHAREHOLDERS pursuant hereto, or in connection with the transactions contemplated hereby, shall be deemed representations and warranties by TITAN and each of the FAGGEN SHAREHOLDERS hereunder. All representations, warranties and agreements made by TITAN and the FAGGEN SHAREHOLDERS shall survive the Closing Date and any investigation at any time made by or on behalf of TITAN or the FAGGEN SHAREHOLDERS. The FAGGEN SHAREHOLDERS (on the one hand), jointly and severally, and TITAN (on the other hand) shall indemnify and hold harmless the other of them against all losses, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from any breach of any warranty, representation, agreement or covenant contained herein; provided, however, that neither party shall be required to indemnify the other with respect to any breach of warranty, representation or agreement contained herein unless the party seeking indemnification (the "Indemnitee") shall, with reasonable promptness, provide the other party (the "Indemnitor") with copies of any claims or other documents received and shall otherwise make available to the Indemnitor all relevant information material to the defense of any claim

against the Indemnitee which shall serve as the basis for a claim by the Indemnitee pursuant to the terms hereof. The Indemnitor shall have the election to join in the defense of any such claim and the Indemnitee shall not settle or compromise the same unless it shall first obtain the written consent of the Indemnitor or unless suit shall have been instituted against the Indemnitee and the Indemnitor shall have failed, after the lapse of a reasonable time after notice to him of such suit, to take action to defend the same; provided, however, that the Indemnitee's failure to give prompt notice or to provide copies of documents or to furnish relevant data shall not constitute a defense (in part or in whole) to any claim by the Indemnitee against Indemnitor except and only to the extent that such failure by the Indemnitee shall result in a material prejudice to the Indemnitor.

12.2 For all purposes of this Agreement, any losses, liabilities, costs or expenses suffered by any controlled subsidiary of TITAN (including any of the FAGGEN COMPANIES) shall be deemed suffered by TITAN.

13. Destruction of Assets. If on the Closing Date any of the assets or properties of the FAGGEN COMPANIES shall have suffered loss or damage on account of fire, flood, accident, act of war, civil commotion, or any other cause or event beyond the reasonable power and control of the FAGGEN COMPANIES and the FAGGEN SHAREHOLDERS (whether or not similar to the foregoing) to an extent which substantially affects the value to TITAN of the stock of the FAGGEN COMPANIES to be transferred hereunder, TITAN shall have the right at its election to complete the acquisition or, if it does not so

elect, it shall have the right which shall be in lieu of any other right or remedy whatsoever, to terminate this Agreement. In the latter event, all parties shall be released from liability hereunder.

14. Termination. Either party on or prior to the Closing Date may forthwith terminate this Agreement under the following circumstances and conditions:

14.1 Without liability to the other of them: (i) if a bona fide action or proceeding shall be pending against any party on the Closing Date wherein an unfavorable judgment, decree or order would prevent or make unlawful the carrying out of the transactions contemplated by this Agreement; or (ii) if the legality and sufficiency of all steps taken and to be taken by the FAGGEN SHAREHOLDERS and by TITAN, in carrying out the transactions contemplated by this Agreement shall not have been approved by counsel for TITAN and counsel for the FAGGEN SHAREHOLDERS.

14.2 Without prejudice to other rights and remedies which it may have, if default shall be made by the other of them in the observance or in the due and timely performance of any of its covenants and agreements herein contained, or if there shall have been a material breach of any of the warranties and representations herein contained.

15. Assignment. This Agreement shall not be assignable by either party without the consent of the other; and nothing contained in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto and their successors in interest and permitted assignees, any rights or remedies under or by reason of this Agreement unless so stated to the contrary.

16. Access and Information. The FAGGEN SHAREHOLDERS shall

cause each of the FAGGEN COMPANIES to afford to TITAN and TITAN's counsel, accountants and other representatives reasonable access, during normal business hours throughout the period from the date hereof to the Closing Date, to all of the properties, books, contracts, commitments and records of each of the FAGGEN COMPANIES and shall furnish TITAN during such period with all such information concerning the FAGGEN COMPANIES' affairs as TITAN reasonably may request, including copies and/or extracts of pertinent records, documents and contracts. The FAGGEN SHAREHOLDERS shall cause each of the FAGGEN COMPANIES to cause its accountants to furnish to TITAN during such period any and all of their statements, working papers and underlying records and data as TITAN reasonably may request.

The FAGGEN SHAREHOLDERS' commitments under this Paragraph 16 are made with the understanding that TITAN and its representatives shall keep confidential any information (unless readily ascertainable from public or published information or trade sources) obtained from the FAGGEN SHAREHOLDERS or the FAGGEN COMPANIES concerning the properties, operations and businesses of the FAGGEN COMPANIES. In the event of the termination of this Agreement, TITAN and its representatives shall continue to keep such information confidential and shall promptly return to the FAGGEN SHAREHOLDERS or to the FAGGEN COMPANIES any statements, documents or other written information obtained from the FAGGEN SHAREHOLDERS or the FAGGEN COMPANIES in connection therewith.

17. Construction. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

Defendant's Exhibit F

18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or if mailed, by United States certified or registered mail, prepaid, to the parties or their assignees at the following addresses (or at such other address as shall be given in writing by either party to the other):

Titan Group, Inc.
529 Fifth Avenue
New York, New York

The FAGGEN SHAREHOLDERS
and each of them

_____

_____

19. Amendment and Waiver.

19.1 The parties hereto may by mutual agreement in writing signed by each party amend this Agreement in any respect. Either party hereto may in writing:

(i) extend the time for the performance of any of the obligations of the other;

(ii) waive any inaccuracies in representations by the other contained in this Agreement or in any document delivered pursuant hereto;

(iii) waive compliance by the other with any of the covenants contained in this Agreement, and performance of any obligations by the other; and

(iv) waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement.

19.2 Any agreement on the part of TITAN for such amendment, extension or waiver shall be validly and sufficiently authorized for the purposes of this Agreement if

authorized or ratified by its Board of Directors or Executive Committee.

20. Remedies Not Exclusive. No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by TITAN or the FAGGEN SHAREHOLDERS shall not constitute a waiver of the right to pursue other available remedies.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

TITAN GROUP, INC.

(Corporate Seal)

By_____

Attest:

_____

FAGGEN SHAREHOLDERS:

_____

_____

_____

Defendant's Exhibit F

6. Federal Securities Act. The parties hereto understand that the Titan Notes and shares of common stock (issuable upon conversion of the Notes) to be issued pursuant to the provisions of this Agreement will not be registered under the Securities Act of 1933, as amended (hereinafter referred to as the "Securities Act"), in reliance upon the exemption contained in Section 4(2) of the Securities Act.

6.1 Letters of Representation.

(a) The Seller does hereby represent, warrant and certify that the Titan Notes and the shares of common stock issuable upon conversion of the Notes received pursuant to the terms of this Agreement shall be acquired in good faith for investment and not with a view to a distribution or resale of any of same. The Seller does further certify that Seller does not now have in mind the acquisition of said Notes and shares of stock issuable upon conversion of the Notes for sale or other disposition on the occurrence or non-occurrence of any predetermined event and understands that Titan is relying upon the truth and accuracy of the representations and warranties herein contained in issuing the same without first registering the same under the Securities Act. The Seller agrees to indemnify and hold Titan harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of any of the same in viola-

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tion of the Securities Act. The Seller has delivered to Titan simultaneously herewith and agrees to deliver to Titan on each date when he shall receive shares of Titan stock issuable upon the conversion of the Notes, investment letters satisfactory in form restating all of the foregoing as of such date.

(b) Titan hereby represents, warrants and certifies that the shares of stock of the Company received pursuant to the terms of this Agreement shall be acquired in good faith for investment and not with a view to a distribution or resale of said shares. Titan does further certify that it does not now have in mind the acquisition of said stock for sale or other disposition on the occurrence or non-occurrence of any predetermined event, and Titan understands that the Seller is relying upon the truth and accuracy of the representations and warranties herein contained in transferring said shares without first registering the same under the Securities Act. Titan agrees to indemnify and hold the Seller harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of the shares of stock of the Company in violation of the Securities Act, as amended.

6.2 Transfer Without Registration. The Seller shall not, without registration under the Securities Act, transfer any of the Titan Notes or shares of stock issuable upon conversion of the Notes received by the Seller pursuant to the provi-

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sions of this Agreement without first having complied with each of the following conditions:

(i) Titan shall have received from the Seller written notice of the proposed transfer, setting forth the circumstances and details thereof; and

(ii) Titan shall have received a written opinion from a law firm satisfactory to Titan, as well as an opinion from its own counsel, specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions of the Securities Act and Rules and Regulations promulgated thereunder.

6.3 Incidental Registration Rights.

(a) Between January 1, 1970 and January 31, 1970, and at any time after January 1, 1972, the Seller shall be entitled to request Titan in writing to cause a registration statement to be filed under the Securities Act within 180 days from the date of such request, with respect to such shares of the common stock of Titan as the Seller shall have acquired or may acquire by exercising the conversion privilege set forth in the Titan Notes and proposed to be sold or disposed of by the Seller (provided that at least 5,000 shares are requested to be so registered), and Titan shall, except as otherwise provided herein, as promptly as practicable, file and diligently seek the effectiveness of such registration statement and shall keep such

Defendant's Exhibit F

registration statement effective for a four-month period after such effective date. Notwithstanding anything herein to the contrary, in the event that the Seller makes a request of Titan between January 1, 1970 and January 31, 1970, to cause a registration statement to be filed pursuant to this subparagraph, Titan shall not be obligated to register more than shares pursuant to such request. Except for underwriting discount or commission, if any, which shall be borne by the Seller, Titan shall bear all expenses which it may incur in discharging its duties under this subparagraph (a). Titan shall be obligated under this subparagraph (a) to cause to be filed a maximum of one registration statement in respect of a request of the Seller, as set forth above, made between January 1, 1970 and January 31, 1970, and one registration statement in respect of a request of the Seller, as set forth above, made after January 1, 1972.

Titan shall have the right to defer the filing of a registration statement requested pursuant to this subparagraph (a), regardless of when requested, to such time as shall make it practicable for Titan to file such registration statement, employing in the initial filing financial statements as of the end of a fiscal year without the inclusion of interim financial statements; and, in addition to the above-referred to right of deferment, Titan shall have the right to defer the filing of a requested registration statement for a period of

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six months if, in its opinion, the earlier filing of such registration statement would materially adversely affect its business or affairs.

(b) At each such time after January 1, 1970, as Titan shall undertake to register for sale by it any shares of its common stock under the Securities Act as then in effect, on Form S-1 or its then equivalent, Titan will give to the Seller, if the Seller shall then still own Notes or shares of Titan common stock issued upon conversion of the Notes, written notice by first-class mail of its intention in that regard, and will use its best efforts, at Titan's sole cost and expense (except as set forth below), to effect the registration under said Act, if such registration is permissible, of shares acquired or to be acquired on exercise of the conversion rights of the Notes as may be specified by written notice by the Seller delivered to Titan at its principal office within ten days after the receipt of Titan's notice of its intention to so register any of its common stock; provided, however, that Titan's obligation to register any of said shares shall be contingent upon the agreement by the Seller: (i) to sell such shares in the manner adopted by and through the underwriter or underwriters acting in connection with such registration and that Titan's obligation shall be further contingent upon such underwriters' willingness to include such shares within such registration; (ii) to offer for registra-

tion at least 5,000 shares; (iii) to accept a reduction, pro rata with all other selling stockholders, in the number of shares to be included in said registration if such reduction is deemed necessary or advisable by such underwriters in order to enable Titan to sell the full number of shares which it desires to sell; and (iv) to pay underwriters' commissions and/or discounts and any and all expenses of their own counsel which they may employ, in connection with any registration, allocable to such shares.

(c) Titan's obligations under subparagraphs (a) and (b) of this Paragraph 6.3 shall in any event terminate two years after the issuance of the last shares (if any) issued upon conversion of the Notes.

6.4 Registration Procedures. If Titan is required by the provisions of subparagraphs (a) or (b) of Paragraph 6.3 to use its best efforts to effect the registration of any of its securities under the Securities Act, it will, as expeditiously as possible and in accordance with the terms and conditions hereof:

A. Prepare and file with the Commission a registration statement with respect to such securities and use its best efforts to cause such registration statement to become and remain effective;

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Defendant's Exhibit F

B. Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for a four-month period and to comply with the provisions of the Securities Act with respect to the sale or other disposition of all securities covered by such registration statement whenever the Seller or Sellers of such securities shall desire to sell or otherwise dispose of same;

C. Furnish to each Seller such numbers of copies of prospectuses, including preliminary prospectuses, in conformity with the requirements of the Securities Act and such other documents as such Seller may reasonably request in order to facilitate the public sale or other disposition of the securities owned by such Seller; and

D. Use its best efforts to register or qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as the Seller shall reasonably request, and do any and all other acts and things which may be necessary or advisable to enable such Seller to consummate the public sale

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or other disposition in such jurisdiction of the securities owned by such Seller, except that Titan shall not for any such purpose be required to consent to service of process in any jurisdiction or qualify to do business as a foreign corporation in any jurisdiction wherein it is not so qualified. Titan shall not be required to keep such registration statement in effect or to keep up to date or to supplement any prospectus issued in connection with any such registration statement more than four months after the effective date of the registration statement involved, provided, however, that in any event Titan's obligation to keep such registration statement in effect and to keep up to date or to supplement any prospectus shall be conditioned upon the furnishing to Titan by the Seller of an undertaking by the Seller that such Securities will be sold to underwriters for a public offering as soon as practicable after the registration state ment shall become effective or such Securities shall be offered in an orderly fashion and by methods designed reasonably to assure that such Securities will be publicly distributed within sixty days after the registration statement shall become effective.

It is expressly understood that Titan in no event shall have any obligation to file a registration statement in respect of the Titan Notes and that the obligations of Titan with

respect to the filing of registration statements shall apply solely to shares of the common stock of Titan acquired by the Seller as the result of having exercised the conversion privilege set forth in the Titan Notes. Titan shall not be obligated to cause the filing of any registration statement in respect of any of the shares of common stock of Titan acquired by the Seller upon the exercise of the conversion privilege set forth in the Titan Notes if Titan delivers to the Seller an opinion of its counsel that such registration is not required under the Securities Act for the sale thereof to the public.

6.5 Legend. It is understood and agreed by the parties hereto that the Notes and any shares issuable upon conversion of the Notes shall bear a legend indicating their status under the Federal Securities Laws and referring to the pertinent provisions of this Agreement bearing on their transferability.

Defendant's Exhibit F

6. Federal Securities Act. The parties hereto understand that the Titan Notes and shares of common stock (issuable upon conversion of the Notes) to be issued pursuant to the provisions of this Agreement will not be registered under the Securities Act of 1933, as amended (hereinafter referred to as the "Securities Act"), in reliance upon the exemption contained in Section 4(2) of the Securities Act.

6.1 Letters of Representation.

(a) The Seller does hereby represent, warrant and certify that the Titan Notes and the shares of common stock issuable upon conversion of the Notes received pursuant to the terms of this Agreement shall be acquired in good faith for investment and not with a view to a distribution or resale of any of same. The Seller does further certify that Seller does not now have in mind the acquisition of said Notes and shares of stock issuable upon conversion of the Notes for sale or other disposition on the occurrence or non-occurrence of any predetermined event and understands that Titan is relying upon the truth and accuracy of the representations and warranties herein contained in issuing the same without first registering the same under the Securities Act. The Seller agrees to indemnify and hold Titan harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of any of the same in viola-

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tion of the Securities Act. The Seller has delivered to Titan simultaneously herewith and agrees to deliver to Titan on each date when he shall receive shares of Titan stock issuable upon the conversion of the Notes, investment letters satisfactory in form restating all of the foregoing as of such date.

(b) Titan hereby represents, warrants and certifies that the shares of stock of the Company received pursuant to the terms of this Agreement shall be acquired in good faith for investment and not with a view to a distribution or resale of said shares. Titan does further certify that it does not now have in mind the acquisition of said stock for sale or other disposition on the occurrence or non-occurrence of any predetermined event, and Titan understands that the Seller is relying upon the truth and accuracy of the representations and warranties herein contained in transferring said shares without first registering the same under the Securities Act. Titan agrees to indemnify and hold the Seller harmless against all liabilities, costs or expenses (including reasonable attorneys' fees) arising as a result of any sale or distribution of the shares of stock of the Company in violation of the Securities Act, as amended.

6.2 Transfer Without Registration. The Seller shall not, without registration under the Securities Act, transfer any of the Titan Notes or shares of stock issuable upon conversion of the Notes received by the Seller pursuant to the provi-

sions of this Agreement without first having complied with each of the following conditions:

(i) Titan shall have received from the Seller written notice of the proposed transfer, setting forth the circumstances and details thereof; and

(ii) Titan shall have received a written opinion from a law firm satisfactory to Titan, as well as an opinion from its own counsel, specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions of the Securities Act and Rules and Regulations promulgated thereunder.

6.3 Incidental Registration Rights.

(a) Between January 1, 1970 and January 31, 1970, and at any time after January 1, 1972, the Seller shall be entitled to request Titan in writing to cause a registration statement to be filed under the Securities Act within 180 days from the date of such request, with respect to such shares of the common stock of Titan as the Seller shall have acquired or may acquire by exercising the conversion privilege set forth in the Titan Notes and proposed to be sold or disposed of by the Seller (provided that at least 5,000 shares are requested to be so registered), and Titan shall, except as otherwise provided herein, as promptly as practicable, file and diligently seek the effectiveness of such registration statement and shall keep such

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registration statement effective for a four-month period after such effective date. Notwithstanding anything herein to the contrary, in the event that the Seller makes a request of Titan between January 1, 1970 and January 31, 1970, to cause a registration statement to be filed pursuant to this subparagraph, Titan shall not be obligated to register more than shares pursuant to such request. Except for underwriting discount or commission, if any, which shall be borne by the Seller, Titan shall bear all expenses which it may incur in discharging its duties under this subparagraph (a). Titan shall be obligated under this subparagraph (a) to cause to be filed a maximum of one registration statement in respect of a request of the Seller, as set forth above, made between January 1, 1970 and January 31, 1970, and one registration statement in respect of a request of the Seller, as set forth above, made after January 1, 1972.

Titan shall have the right to defer the filing of a registration statement requested pursuant to this subparagraph (a), regardless of when requested, to such time as shall make it practicable for Titan to file such registration statement, employing in the initial filing financial statements as of the end of a fiscal year without the inclusion of interim financial statements; and, in addition to the above-referred to right of deferment, Titan shall have the right to defer the filing of a requested registration statement for a period of

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six months if, in its opinion, the earlier filing of such registration statement would materially adversely affect its business or affairs.

(b) At each such time after January 1, 1970, as Titan shall undertake to register for sale by it any shares of its common stock under the Securities Act as then in effect, on Form S-1 or its then equivalent, Titan will give to the Seller, if the Seller shall then still own Notes or shares of Titan common stock issued upon conversion of the Notes, written notice by first-class mail of its intention in that regard, and will use its best efforts, at Titan's sole cost and expense (except as set forth below), to effect the registration under said Act, if such registration is permissible, of shares acquired or to be acquired on exercise of the conversion rights of the Notes as may be specified by written notice by the Seller delivered to Titan at its principal office within ten days after the receipt of Titan's notice of its intention to so register any of its common stock; provided, however, that Titan's obligation to register any of said shares shall be contingent upon the agreement by the Seller: (i) to sell such shares in the manner adopted by and through the underwriter or underwriters acting in connection with such registration and that Titan's obligation shall be further contingent upon such underwriters' willingness to include such shares within such registration; (ii) to offer for registra-

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tion at least 5,000 shares; (iii) to accept a reduction, pro rata with all other selling stockholders, in the number of shares to be included in said registration if such reduction is deemed necessary or advisable by such underwriters in order to enable Titan to sell the full number of shares which it desires to sell; and (iv) to pay underwriters' commissions and/or discounts and any and all expenses of their own counsel which they may employ, in connection with any registration, allocable to such shares.

(c) Titan's obligations under subparagraphs (a) and (b) of this Paragraph 6.3 shall in any event terminate two years after the issuance of the last shares (if any) issued upon conversion of the Notes.

6.4 Registration Procedures. If Titan is required by the provisions of subparagraphs (a) or (b) of Paragraph 6.3 to use its best efforts to effect the registration of any of its securities under the Securities Act, it will, as expeditiously as possible and in accordance with the terms and conditions hereof:

A. Prepare and file with the Commission a registration statement with respect to such securities and use its best efforts to cause such registration statement to become and remain effective;

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Defendant's Exhibit F

B. Prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for a four-month period and to comply with the provisions of the Securities Act with respect to the sale or other disposition of all securities covered by such registration statement whenever the Seller or Sellers of such securities shall desire to sell or otherwise dispose of same;

C. Furnish to each Seller such numbers of copies of prospectuses, including preliminary prospectuses, in conformity with the requirements of the Securities Act and such other documents as such Seller may reasonably request in order to facilitate the public sale or other disposition of the securities owned by such Seller; and

D. Use its best efforts to register or qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as the Seller shall reasonably request, and do any and all other acts and things which may be necessary or advisable to enable such Seller to consummate the public sale

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or other disposition in such jurisdiction of the securities owned by such Seller, except that Titan shall not for any such purpose be required to consent to service of process in any jurisdiction or qualify to do business as a foreign corporation in any jurisdiction wherein it is not so qualified. Titan shall not be required to keep such registration statement in effect or to keep up to date or to supplement any prospectus issued in connection with any such registration statement more than four months after the effective date of the registration statement involved, provided, however, that in any event Titan's obligation to keep such registration statement in effect and to keep up to date or to supplement any prospectus shall be conditioned upon the furnishing to Titan by the Seller of an undertaking by the Seller that such Securities will be sold to underwriters for a public offering as soon as practicable after the registration state ment shall become effective or such Securities shall be offered in an orderly fashion and by methods designed reasonably to assure that such Securities will be publicly distributed within sixty days after the registration statement shall become effective.

It is expressly understood that Titan in no event shall have any obligation to file a registration statement in respect of the Titan Notes and that the obligations of Titan with

respect to the filing of registration statements shall apply solely to shares of the common stock of Titan acquired by the Seller as the result of having exercised the conversion privilege set forth in the Titan Notes. Titan shall not be obligated to cause the filing of any registration statement in respect of any of the shares of common stock of Titan acquired by the Seller upon the exercise of the conversion privilege set forth in the Titan Notes if Titan delivers to the Seller an opinion of its counsel that such registration is not required under the Securities Act for the sale thereof to the public.

6.5 Legend. It is understood and agreed by the parties hereto that the Notes and any shares issuable upon conversion of the Notes shall bear a legend indicating their status under the Federal Securities Laws and referring to the pertinent provisions of this Agreement bearing on their transferability.

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Defendant's Exhibit F

EXHIBIT A

TITAN GROUP, INC.

4% CONVERTIBLE INSTALLMENT NOTE

DUE NOVEMBER 1, 1978

NUMBER_____ New York, New York

$_____ _____

TITAN GROUP, INC., a Delaware corporation (hereinafter called "the Company"), for value received, hereby promises to pay _____

_____

or order, the principal sum of _____ Dollars in such coin or currency of the United States of America as at the time of payment (as hereinafter set forth) shall be legal tender for the payment of public and private debts, upon surrender hereof for payment in full at the principal office of the Company, 529 Fifth Avenue, New York, New York, and to pay interest on the unpaid principal hereof from the date hereof at the rate of 4% per annum, in like coin or currency, semi-annually on May 1 and November 1 of each year, until such principal sum shall have become due and payable, and to pay interest at the rate of 7% per annum on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the due date thereof, until the obligation of the Company with respect to the payment thereof shall be discharged.

This Note is one of the Notes of the Company, aggregating $5,500,000 in original authorized principal amount, executed and delivered by the Company pursuant to a certain Agreement dated _____, between the Company and Holders therein named, and all persons who shall from time to time

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be holders of any of such Notes. The Company hereby agrees with the Holder of this Note that it will perform and observe each of its covenants and agreements contained in said Agreement, as from time to time amended and supplemented, the provisions of which Agreement are hereby incorporated herein by reference with the same effect as if herein set forth in full.

1. Payment of Principal.

The principal sum of this Note and all interest then accrued and unpaid shall become due and payable as follows:

November 1, 1973	20% of the original face amount hereof.
November 1, 1974	20% of the original face amount hereof.
November 1, 1975	20% of the original face amount hereof.
November 1, 1976	20% of the original face amount hereof.
November 1, 1977	The balance of the original face amount hereof.

Notwithstanding the foregoing, if (a) the Company shall (i) admit in writing its inability to pay its debts generally as they become due, (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a receiver for itself or for the whole or any substantial part of its property, (v) on a petition in bankruptcy filed against it, be adjudicated a bankrupt, or (vi) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof; or (b) if a court of competent jurisdiction shall enter an order, judgment or decree appointing,

without the consent of the Company, a receiver of the Company, or of the whole or any substantial part of its property, or approving a petition filed against it seeking reorganization or arrangement of the Company under the Federal bankruptcy laws or any other applicable law or statute of the United

States of America or any State thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or (c) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its property and such custody or control shall not be terminated or stayed within sixty (60) days from the date of assumption of such custody or control; then, in any such event, at the option of the holder of any Note exercised by written notice to the Company at its principal office, such Note, together with the interest accrued thereon, shall forthwith become and be due and payable.

2. Register of Notes.

The Company or its duly appointed agent shall maintain a register or registers in which it shall register all of the Notes and shall transfer them in accordance with the terms hereof and of the said Agreement. The Notes shall be transferred only on the register or registers maintained by the Company or its agent and the Company shall be entitled to regard the registered holder as the actual holder of the Note so registered for all purposes until a transfer has been effected by the Company or its agent. The Company or its agent shall not be required to make any transfer unless and until it shall receive the Note to be transferred duly and properly endorsed or signed by the registered holder thereof or by his attorney duly authorized in writing and unless and until the registered holder is entitled to transfer the same under the provisions hereof and of the said Agreement.

3. Prepayment.

The Company may not prepay any of the Notes, or any part thereof, prior to November 1, 1971. Thereafter, the

Company, at its election, subject to the giving of notice as provided below, may prepay the principal amount of the outstanding Notes, in whole or in part, at the respective amounts set forth below plus interest accrued and unpaid to the date of prepayment.

If Redeemed During the Twelve Months Period Commencing November 1	Redemption Price (as a Percent of Principal Amount)
1971	105%
1972	104-1/6%
1973	103-1/3%
1974	102-1/2%
1975	101-2/3%
1976	100-5/6%
1977	100%

Notwithstanding the foregoing, the Company shall have the option at any time in the event of any merger or consolidation of the Company with or into, or the sale of substantially all of its assets to, any other corporation, to call for prepayment without penalty any or all of such Notes at the face amount plus interest accrued and unpaid to the date of prepayment or to cause without penalty such other corporation or any surviving or resulting corporation to assume the Company's obligations under the said Agreement, in the manner and fashion set forth in the last paragraph of Section 4 below.

In the case of any prepayment of the Notes, or any part thereof, notice thereof shall be given not less than thirty (30) nor more than sixty (60) days prior to the date fixed in such notice for such prepayment, (hereinafter referred to as the "Prepayment Date"). Such notice shall be sent by registered or certified mail, postage prepaid, to each of the holders of the Notes then outstanding at the most recent

address of such holders as reflected in the register or registers of Notes maintained by the Company, and said notice shall be deemed given when deposited in the mail.

In the case of any prepayment of less than the entire unpaid principal amount of all outstanding Notes, the amount to be prepaid shall be applied pro rata to all outstanding Notes according to the respective unpaid principal amounts thereof.

4. Conversion Privilege.

Any holder of any Note, at his option, at any time after the issuance of the Notes, and from time to time up to noon, New York time, on the fifth day before the Prepayment Date or the final maturity date (whichever is applicable), may convert such Note, or any part thereof, held by him into Common Stock of the Company, at the rate and upon the terms hereinafter set forth. Such conversion shall be at the rate on one whole share of Common Stock for each Twenty Dollars ($20.00) [Fifteen Dollars ($15.00) in the case of Seven Hundred Fifty Thousand Dollars ($750,000.00) in aggregate face amount of Notes] of the unpaid principal amount of each Note, subject to adjustment as provided herein. No fractional shares will be issued in connection with any such conversion, but in lieu of such fractional shares, the Company shall make a cash payment therefor equal in amount the product of the applicable fraction multiplied by the conversion price then in effect.

To convert, the holder of any Note shall deliver written notice of his election to so convert, and shall surrender such Note appropriately endorsed, to the Company at its principal office. The date of conversion of such Note shall be deemed to be the date of receipt of such Note by

the Company, provided it is accompanied by the required written notice, even if the Company's stock transfer books are at the time closed, and the converting holder shall be deemed to have become, on the date of conversion, the record holder of the shares of Common Stock deliverable upon such conversion.

As soon as reasonably possible, after the date of conversion, the Company shall issue and deliver to such converting holder a certificate or certificates for the number of shares of its Common Stock due on such conversion. No adjustment shall be made in the number of shares of Common Stock issuable upon conversion of the Notes on account of interest accrued but not yet due and unpaid to the date of conversion nor shall any such interest be paid upon such conversion; provided, however, that the amount of any interest theretofore due and unpaid at the date of conversion shall be paid by the Company upon conversion but shall not be convertible into Common Stock. The issuance of Common Stock certificates on conversion shall be made without charge to the holder of the converted Note for any issuance or transfer tax in respect of such issuance.

The Company shall not, however, be required to pay any tax which may be payable in respect to any transfer involved in the issue and delivery of shares of Common Stock in any name other than that of the holder of the converted Note, and the Company shall not be required to issue or deliver any such Common Stock certificate unless and until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

In no event shall the Company be liable to any person or entity for failure to sell or issue any of its Common Stock upon conversion of the Notes unless and until all requisite authority under applicable rules and regulations of any state or federal regulatory agencies for such sale or issuance has been obtained and all applicable state or federal laws have been complied with. Subject to the provisions hereof and of the said Agreement, the Company covenants and agrees that it will use its best efforts to obtain such authority and to insure compliance with applicable laws without necessary delay.

In the event the Company shall at any time change the outstanding shares of Common Stock issuable upon conversion of the Notes, by way of stock dividend, stock split, reverse stock split or similar reclassification (all such changes are hereinafter referred to as "Reclassifications") of the capital stock of the Company, the conversion price of the Common Stock as defined above shall be proportionately decreased or increased. Any such adjustment shall become effective at the close of business on the date that any such Reclassification shall become effective. Notice of any such adjustment shall be mailed (by first class mail) by the Company to the holders of the Notes at the most current address reflected in the register or registers of Notes maintained by the Company.

In the event that after the date hereof the Company shall merge or consolidate into another corporation, or shall sell, transfer or otherwise dispose of all or substantially all of its property, assets or business to another corporation and pursuant to the terms of such merger, consolidation or disposition of assets, shares of Capital stock of the Successor or Acquiring Corporation shall be received by or

distributed to the holders of Common Stock of the Company, and in the event and to the extent that the Company shall not elect to prepay the Notes or any portion of them pursuant to Paragraph 3 above, the Successor or Acquiring Corporation shall execute an agreement supplemental hereto assuming all of the Company's obligations hereunder and providing that the Notes shall thereafter be convertible into shares of Capital Stock of the Successor or Acquiring Corporation in the same manner as if such Notes had been converted into Common Stock of the Company immediately prior to such event.

The Company covenants and agrees that during the period during which the N es shall be convertible, the Company will at all times have authorized and reserved for the purpose of issue upon exercise of the conversion privilege a sufficient number of shares of its Common Stock.

5. Transfer Without Registration.

No holder of any Note or Common Stock issuable upon conversion of any Note shall transfer such Note or Common Stock issuable upon conversion thereof (hereinafter referred to as "Note Stock") unless each of the following conditions has been satisfied:

(a) The Company shall have received written notice of the proposed transfer, setting forth the circumstances and details thereof;

(b) The Company shall have received a written opinion from a law firm satisfactory to the Company specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder; and

(c) The Company shall have received a written opinion from its counsel to the effect that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder.

6. Subordination Provisions.

The Holder hereof agrees that the payment of the principal, premium, if any, and interest on this Note is expressly subordinated to the prior payment of any and all Senior Debt of the Company or any of its subsidiaries. "Senior Debt" for this purpose means the principal of (and premium, if any) and interest on the following, whether outstanding at the date hereof or hereafter incurred or created: (a) indebtedness of the Company or any of its subsidiaries for money borrowed or other indebtedness to persons, firms or corporations which engage in lending money, including, but without limitation, banks, trust companies, insurance companies and other financing institutions and charitable trusts, pension trusts and other investing organizations, evidenced by notes or other written obligations, (b) indebtedness of the Company or any of its subsidiaries evidenced by notes, debentures (other than this Note and those others of like tenor issued concurrently herewith), bonds or other securities issued for cash under the provisions of any indenture or similar instrument, whether privately or

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publicly offered, (c) indebtedness of others of either of the kinds described in the preceding clauses (a) and (b) assumed or guaranteed by the Company or any of its subsidiaries and (d) renewals, extensions and refunding of indebtedness of the kinds described in the preceding clauses (a), (b) and (c), together with any liability or obligation of the Company or any of its subsidiaries to pay money (other than as lessor) in connection with any lease of equipment; unless in the case of any particular indebtedness, renewal, extension or refunding, or liability or obligation

in connection with any lease of equipment, the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such indebtedness, renewal, extension or refunding, or liability or obligation in connection with any lease of equipment, the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such indebtedness, renewal, extension or refunding, or liability or obligation in connection with any lease of equipment, is not superior in right of payment to this Note. So long as no default and no event which would become an event of default upon the lapse of time or upon the notice and lapse of time specified has occurred under or with respect to any such Senior Debt and no default or event of default will be created by such payment or payments, the Company may pay to Holder hereof interest and principal as provided herein, which payments on interest and principal of this Note are hereafter referred to as Allowed Payments.

Until all present or future Senior Debt has been paid in full, unless with the prior written consent of the holder or holders of the Senior Debt, the Holder hereof agrees not to subordinate the payment hereof to the claim of any other creditor of the Company or any of its subsidiaries and not to receive or accept, other than Allowed Payments, any payment (directly or indirectly) or to borrow any money or property from the Company or any of its subsidiaries, and the Company agrees not to pay (and to cause its subsidiaries not to pay), other than Allowed Payments, any part of the indebtedness evidenced by this Note or to loan to or give any money or property to the Holder hereof.

Any payments, which shall include any and all moneys

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received by the Holder hereof from the foreclosure of any collateral given to secure payment hereof, received directly or indirectly from the Company or its subsidiaries or their properties contrary to the provisions of this Paragraph 6 or by reason of insolvency, assignment for benefit of creditors, bankruptcy, receivership of or attachment or execution or other sale of assets of the Company or its subsidiaries, will be paid by the Holder hereof to the holder or holders of Senior Debt promptly upon demand to the extent necessary to pay the Senior Debt in full.

The Holder hereof agrees, that in the event of insolvency, assignment for benefit of creditors, bankruptcy, receivership or other proceedings tending towards liquidation of the business and assets of the Company immediately to file its or his claim for the unpaid balance of its or his Note in the form required in said proceedings and cause said claim to be approved, and the Holder hereof will immediately thereafter assign and transfer to the holders of Senior Debt all of its or his right, title and interest in and to the claim which was filed. If the Holder hereof does not file a proper claim or proof of debt in the form required in such proceeding prior to thirty (30) days before the expiration of the time to file such claim, then the holder or holders of Senior Debt have the right to and are hereby authorized to file an appropriate claim or claims for and on behalf of the Holder hereof.

The Holder hereof hereby assigns, transfers and conveys to the holder of Senior Debt, all of its or his interest in and to any and all such claims as may be filed against the Company in liquidation and expressly authorizes and directs any assignee, trustee in bankruptcy, receiver or

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Other person in charge to pay and deliver to the holder of Senior Debt sufficient of the dividends and other property distributed to pay the Senior Debt in full.

It is agreed that the provisions of this Paragraph 6 are and are intended solely for the purpose of defining the relative rights of the Holder hereof and of the Senior Debt and nothing in this paragraph shall or is intended as between the Company and the Holder hereof to impair the obligation of the Company which is unconditional and absolute, to pay to the Holder of this Note the principal thereof and interest thereon or to affect the relative rights of the Holder hereof and creditors of the Company other than the holders of Senior Debt, nor shall anything in this Paragraph 6 prevent the Holder hereof from exercising all remedies otherwise permitted by applicable law upon default under this Note subject to the rights under this Paragraph 6 of the holders of Senior Debt in respect to cash or property of the Company received upon the exercise of any such remedy.

7. Legend.

It is understood and agreed by the parties hereto, and all persons who shall from time to time be holders of any of the Notes or Note Stock, that the Note Stock shall bear a legend substantially as follows:

"The transfer of the shares represented by this certificate is subject to the conditions specified in the Agreement dated _____, 1968, providing for the issuance of Notes pursuant to the conversion of which such shares were issued and sold by Titan Group, Inc. (the "Company") and no transfer of such shares shall be valid or effective until such conditions have been fulfilled. A copy of such

Agreement is on file and may be inspected at the principal office of the Company. The holder of this certificate, by acceptance of this certificate, agrees to be bound by the provisions of such Agreement and to indemnify and hold harmless the Company, and other persons specified in such Agreement, against loss or liability arising from the disposition of the shares represented by this certificate in violation of such provisions."

8. Attorneys' Fees.

In the event that legal action becomes necessary to enforce the terms and conditions of this Note, the losing party in such legal action shall pay all the incidental costs and reasonable attorneys' fees incurred by the prevailing party.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN, NO TRANSFER OF THIS NOTE OR OF THE STOCK PURCHASABLE HEREUNDER OR OF ANY INTEREST IN EITHER THEREOF SHALL BE VALID OR EFFECTIVE UNTIL THE CONDITIONS SPECIFIED IN THE HEREINMENTIONED AGREEMENTS HAVE BEEN FULFILLED. THE HOLDER OF THIS NOTE, BY ACCEPTANCE OF SAME, AGREES TO BE BOUND BY THE PROVISIONS OF SUCH AGREEMENTS AND TO INDEMNIFY AND HOLD HARMLESS THE COMPANY AGAINST LOSS OR LIABILITY ARISING FROM THE DISPOSITION OF THIS NOTE OR THE STOCK PURCHASABLE HEREUNDER OR ANY INTEREST IN EITHER THEREOF IN VIOLATION OF SUCH PROVISIONS.

TITAN GROUP, INC.

By_____
President/Vice President

By_____
Secretary/Assistant Secretary

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DEFENDANT'S EXHIBIT G

AGREEMENT OF SALE

by and among the

FAGGEN SHAREHOLDERS

and

TITAN GROUP, INC.

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Defendant's Exhibit G

AGREEMENT OF SALE

Agreement of Sale made this day of 1968, as of October 1, 1968, between (hereinafter referred to as the "Seller") and TITAN GROUP, INC., a Delaware corporation having its principal office at 529 Fifth Avenue, New York, New York (hereinafter referred to as "Titan").

RECITALS

This Agreement is made in light of the following circumstances:

(i) The Seller owns all of the issued and outstanding stock of a New York corporation with its principal place of business at 853 Broadway, New York, New York (hereinafter referred to as the "Company"); and

(ii) The Company is in the business of providing actuarial and computer services and related activities; and

(iii) Titan (together with its subsidiary corporations) is engaged in diverse real estate, insurance, service and related activities; and

(iv) Titan and the Seller believe that it would be in their mutual best interests, and in the interest of Titan's shareholders, for Titan to purchase and acquire all of the issued and outstanding stock of the Company.

Defendant's Exhibit G

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Transfer of Stock. For the consideration hereinafter provided, the Seller hereby agrees to and hereby does sell, transfer, assign and convey to Titan and Titan hereby agrees to and hereby does purchase from Seller all of the issued and outstanding stock of the Company.

2. Consideration for the Shares of Stock of the Company. In consideration for said sale, transfer and assignment by the Seller, Titan simultaneously herewith has paid to the Seller an aggregate purchase price of which is represented by a check in the amount of $ and Titan's 4% Convertible Installment Notes (the "Notes") in an aggregate principal amount equal to such purchase price, (less the amount of the above referred to check) which Notes and check Titan has delivered to the Seller and the Seller hereby acknowledges receipt thereof. The Notes shall be dated as of October 1, 1968, shall bear interest at the rate of four percent (4%) per annum, and shall be payable in five (5) installments, as set forth in and otherwise in the form attached hereto as Exhibit "A".

3. Representations and Warranties of the Seller. The Seller represents and warrants the following as of the date hereof:

Defendant's Exhibit G

3.1 Financial Statements. Attached hereto and made a part hereof are the following exhibits:

Exhibit "B" - Tax returns including Income Statement, Balance Sheet and supporting schedules of the Company as at the fiscal years ended in 1964, 1965, 1966, 1967 and 1968.

Exhibit "C" - Trial Balance Sheet and supporting schedules of the Company as at September 30, 1968.

Exhibit "D" - Trial Income Statement, together with supporting schedules of the Company for the period ended September 30, 1968.

Exhibits "B", "C" and "D" (i) are in accordance with the books and records of the Company (except as stated therein to the contrary), (ii) set forth fairly the financial condition of the Company and results of its operations as at the relevant dates thereof and for the periods covered thereby, all prepared in accordance with generally accepted accounting pirnciples, on a cash and not on an accrual basis, (iii) contain and reflect all necessary adjustments for a fair presentation of the results of operations and financial condition for the periods covered thereby, and (iv) with respect to the Company's contracts and commitments, contain and reflect reserves for all material liabilities and for all reasonably anticipated material losses and costs in excess of expected receipts.

3.2 Investment in Other Entities. There are no entities in which the Company has any debt (other than trade

accounts receivable) or equity interest, or any right or option to acquire any such interest, other than as set forth on a schedule initialled by the Seller and delivered herewith.

3.3 Organization and Good Standing of the Company. The Company is a corporation duly organized and existing and in good standing under the laws of New York and has full corporate power to carry on its business as now conducted, and is entitled to own or lease or operate its properties and assets now owned, leased or operated by it. The Company is qualified to do business and is in good standing in each jurisdiction in which the nature of its business and/or the character of its properties make such qualification necessary.

3.4 (i) Outstanding Securities of the Company. The authorized capital stock of the Company is divided into shares of par value each. There are presently issued and outstanding shares, all of which are validly issued, fully paid and nonassessable. Other than as disclosed in exhibits to this Agreement, no shares of the Company are held by it in its treasury or otherwise.

(ii) Outstanding Options and Warrants. There are no options, warrants or other rights outstanding for the purchase of, nor any securities convertible into, capital stock of the Company, whether issued, unissued or held in the treasury.

Defendant's Exhibit G

3.5 Absence of Certain Changes. Other than as disclosed in exhibits to this Agreement, since September 30, 1968, there has not been:

(i) any material adverse change in the financial condition, assets, liabilities, or businesses of the Company;

(ii) any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting any of the Company's properties or businesses;

(iii) any material increase in the compensation payable or to become payable by the Company to any employees or agents, or any bonus payment or arrangement made to or with any thereof, except as shown on Exhibit "E";

(iv) except as set forth herein, any payment by the Company of dividends or any distribution by it of any assets of any kind whatsoever to its stockholder in redemption or as the purchase price of any capital stock or in discharge or cancellation, whether in part or in whole, of any indebtedness (whether in payment of principal, interest or otherwise) owing to any of same;

(v) any mortgage, pledge or subjection to lien, charge or encumbrance of any kind of the Company's assets, tangible or intangible;

(vi) except as set forth herein, any sale or transfer of the Company's assets, or any cancellation of any

of the debts or claims of the Company except in the ordinary course of business;

(vii) any material amendment or termination of any material contract, agreement or license, to which the Company is a party otherwise than in the ordinary course of business, or any material amendment or termination of any contract, agreement, or license with any customer of the Company which in the most recent fiscal year of the Company paid to the Company fees aggregating five percent (5%) of the Company's gross revenue;

(viii) any commitment by the Company (through negotiations or otherwise) or any liability incurred to any labor organization actually or purportedly representing or attempting to represent any of the employees of the Company except as set forth on Exhibit "F"; or

(ix) any event or condition of any character, materially and adversely affecting the businesses or properties of the Company.

3.6 Contracts. Attached hereto as Exhibit "G" is a schedule of all Material Contracts and Commitments containing a list of all such contracts and commitments to which the Company is a party or by which it is bound. For the purpose of this Paragraph 3.6, the term "Material Contracts and Commitments" shall be defined as (i) all contracts or commitments out of the ordinary course of business; (ii) all contracts and

commitments involving an obligation to render services during a fixed period of time at a fixed compensation; (iii) all contracts or commitments affecting ownership of, title to, use of, or any interest in real estate; (iv) all bonuses, incentive compensation, pension, group insurance or employee welfare plans of any nature whatsoever; (v) all collective bargaining agreements or other contracts or commitments to or with any labor unions or other employee representatives or groups of employees; (vi) employment contracts and all other contracts, agreements or commitments to or with individual employees or agents extending for a period of more than six (6) months from the date hereof or providing for earlier termination only upon yhe payment of a penalty or equivalent thereof; (vii) all other contracts or commitments providing for payments based in any manner upon the sales, purchases or profits of the Company; (viii) any contract or commitment, whether in the ordinary course of business or not, which involves future payments, performance of services or delivery of goods and/or materials, to or by the Company of an aggregate amount or value in excess of Twenty-five Thousand Dollars ($25,000), excluding terminable commitments to perform services for customers or clients. There has not been any material default in any obligation to be performed by the Company under any such Material Contract or Commitment listed on the said Exhibit "G", and the Company has not waived or suffered the loss

or extinguishment of any material right under any such Material Contract or Commitment.

3.7 Properties. Attached hereto as Exhibit "H" is a schedule of all real property owned in fee by the Company, together with a summary of all other real property, including leaseholds and options to purchase real property, owned by the Company or in which it has any interest, containing an accurate description thereof and an accurate summary of the principal terms of all leases and options to purchase real property, including the names of its lessors and persons or entities against whom options to purchase real property are or will be exercisable. The Company has good and marketable title to all of its properties and assets (including but not limited to those reflected in its Trial Balance Sheet as at September 30, 1968, except as since sold or otherwise disposed of in the ordinary course of business), all free and clear of all covenants, conditions, easements, liens, charges and encumbrances other than as set forth in exhibits attached to this Agreement, and other than liens for property taxes not delinquent. The plants, structures, leasehold improvements, equipment, and other tangible assets of the Company are, to the knowledge and belief of the Seller, in good operating condition and repair, subject only to ordinary wear and tear. There has been no failure of the Company to comply in all material respects with all laws, regulations and orders applicable to its

properties and businesses which has not been remedied without material adverse effect upon the businesses and/or assets of the Company.

3.8 Absence of Undisclosed Liabilities. Except as specifically set forth in exhibits to this Agreement, the Company is not obligated for, nor are any of its assets or properties subject to, any liabilities or materially adverse obligations, whether or not such liabilities are normally shown or reflected on a balance sheet prepared in a manner consistent with generally accepted accounting principles, other than liabilities or obligations arising in the ordinary course of business since September 30, 1968, none of which are materially adverse. The Company is not in default in respect to any material term or condition of any indebtedness or liability (including trade payables). There are no facts in existence on the date hereof and known to the Seller which might reasonably serve as the basis for any material liabilities or obligations of the Company not disclosed in this Agreement or in exhibits hereto.

3.9 Outstanding Indebtedness. Attached hereto as Exhibit "I" is a true and complete list of all indebtedness (other than trade accounts payable and normal accruals of expenses and taxes arising in the ordinary course of business with respect to which no assets have been pledged or otherwise hypothecated, voluntarily or involuntarily), of the Com-

pany or with respect to which any of its properties or assets are subject, including a description of all of the terms thereof, and a description of all properties or assets pledged, mortgaged or otherwise hypothecated (voluntarily or involuntarily) as security therefor.

3.10 Tax Returns and Audits.

(i) The Company has filed all income, franchise and other tax returns required to be filed (including those owing to the United States or other government or any subdivisions thereof) by it by the date hereof, or has duly obtained extensions of time by which said returns must be filed. The provisions for federal, state, and local taxes reflected on its financial statements and exhibits attached hereto are adequate to cover its liabilities for such taxes with respect to the period then ended and for all prior periods.

(ii) The Seller heretofore delivered to Titan copies of the federal and state tax returns for the taxable years ending in 1964 through 1968 for the Company, constituting complete and accurate representations of its respective tax liabilities for said years and accurately reflecting its position with respect to future tax liabilities by accurately setting forth all relevant items, including the tax bases of all assets, to the extent required to be set forth in said returns.

(iii) The Company has not consented pursuant to the provisions of Section 341(f) of the Internal Revenue Code

of 1954, as amended, to have the provisions of Section 341(f)(2) apply to the transfers of stock pursuant to this Agreement.

(iv) Notwithstanding anything to the contrary in this Agreement or any exhibits hereto, the Company has no liabilities for any taxes with respect to current periods, or any prior periods, pursuant to any section of the Internal Revenue Code of 1954, as amended (or comparable provisions of any state income or franchise tax law), other than corporate income taxes (or comparable state franchise taxes) due pursuant to Section 11 (including Section 1562) of said Internal Revenue Code of 1954, as amended (or comparable state income or franchise tax laws).

3.11 Litigation. Except as set forth in Exhibit "J" attached hereto, neither the Company nor the Seller has been served with any summons, complaint or notice to arbitrate, and the Seller has no knowledge of any suit, equitable or legal, administrative, arbitration or other proceeding pending or threatened against the Company, which relates to the businesses, properties or assets of the Company.

3.12 Labor Problems. Except as disclosed in exhibits to this Agreement, the Company has not been a party to any contract or agreement with a labor union or any local or subdivision thereof actually or purportedly acting for or on behalf of any of the employees of the Company, nor has it been charged with

any unresolved unfair labor practices, nor does the Seller have knowledge of any present union organizing activity among any of the respective employees of the Company.

3.13 Insurance Coverage. The Company maintains policies of fire, liability, warranty, use and occupancy and other forms of insurance, covering its properties and assets, in amounts and against such losses and risks as are generally maintained for comparable businesses and properties, and valid policies for such insurance are outstanding and are duly in force.

3.14 Interests in Competitors, Suppliers, Customers, etc. Except as disclosed in Exhibit "K", neither the Seller nor members of the Seller's family owns, directly or indirectly, individually or collectively, a material interest in any corporation, partnership, firm or association which (i) is a competitor, potential competitor, supplier or customer of the Company, or (ii) has an existing contractual relationship with the Company, including but not limited to lessors of real or personal property leased to the Company and entities against whom rights or options are exercisable by the Company.

3.15 Indebtedness to Officers, Directors and Stockholders. Other than as set forth in Exhibit "L", the Company is not indebted to any of those persons who are stockholders, officers and/or directors of the Company or to their respective spouses or children in any amount whatsoever other than for compensation for services rendered.

Defendant's Exhibit G

3.16 Articles of Incorporation and By-Laws. The Seller has heretofore delivered to Titan true, accurate and complete copies of the Articles of Incorporation and By-Laws, together with all amendments to each of same, of the Company. Nothing contained therein prevents or adversely affects the consummation of the transaction contemplated by this Agreement.

3.17 Corporate Minutes. The Seller has heretofore furnished to Titan for its examination the minute books of the Company containing complete and accurate records of any and all proceedings and actions at all meetings of its stockholders and Board of Directors required to be set forth in such minutes.

3.18 Onerous Agreements, etc. The Company is not a party to, or otherwise bound by, any contracts, commitments or undertakings (contractual or otherwise) which are materially adverse, onerous or otherwise harmful to its business, properties or assets, except as disclosed herein or in exhibits to this Agreement.

3.19 Brokerage and Finder's Fees. The Seller hereby warrants and represents that neither the Seller nor the Company, nor any of its employees or agents, has incurred any liability to any broker, finder or agent for any brokerage fees, finder's fees or commissions with respect to the transactions contemplated by this Agreement, which liability will

will diminish the assets and properties of the Company or will affect the shares transferable to Titan hereunder, or which liability may be asserted against Titan or the Company.

3.20 Qualification in Other States. The Company is not required to be and is not qualified to do business in any state.

3.21 Accounts Receivable. Attached hereto as Exhibit "M" is a schedule of accounts receivable of the Company as at September 30, 1968, properly aged in accordance with the date each account receivable originally came into existence, without taking into account any renewals thereof.

3.22 Salaried Employees. Attached hereto as Exhibit "N" is a schedule as of the date hereof showing the names of all persons to whom the Company has paid or is obligated to pay any salary or other compensation for the calendar year 1968, their annual rate of compensation, and the nature of their duties entitling them to such compensation. Said schedule shall contain all of the employees of the Company except those whose compensation is based upon an hourly or piece-work rate.

3.23 Material Misstatements or Omissions. No representations or warranties by the Seller in this Agreement, nor any document, statement, certificate or schedule furnished to Titan pursuant hereto, or in connection with the transactions

contemplated hereby, contains or will contain any untrue statement of a material fact necessary to make the statements or facts contained therein not misleading.

4. Obligations and Covenants of the Seller. The Seller hereby covenants and agrees as follows:

4.1 Contemporaneously with the execution of this Agreement, the Seller has delivered to Titan:

(a) Certificates for the shares of stock described in Paragraph "1" hereof, duly endorsed in blank, with the necessary transfer stamps affixed, or funds therefor.

(b) True, complete and correct copies of the Certificate of Incorporation and amendments thereto, By-Laws and amendments thereto, Minute Books, Stock Transfer Books, and corporate seal of the Company.

(c) Certified copies of resolutions of the Board of Directors of the Company in the form specified by the banks with which the Company does business, adding to all prior signatories on checks the names of Eugene A. Hegy, Jr., Anthony M. Frank, Richard K. McIntyre, and Benjamin M. Robinson, signing jointly; a list of each bank, savings and loan, or other financial institutions in which the Company has an account or safe deposit box, and the names of all persons, other than those set forth above, authorized to draw thereon or have access thereto.

(d) Resignations of all officers and directors of the Company.

(e) Copies of minutes of the meeting of the Board of Directors of the Company electing the following persons as directors in place of those persons who have resigned as directors and officers:

and electing the following persons as officers:

President
Vice President
Vice President and
Assistant Secretary
Vice President and
Assistant Secretary
Secretary and Treasurer

(f) General releases of all claims, save as specifically therein qualified, of the Seller against the Company.

(g) Employment Contract between Harold A. Faggen and the Company in the form of Exhibit "O" annexed hereto.

(h) A written opinion of Simon Sheib, Esq., legal counsel for the Company, to the effect that: (i) the Company is duly organized and existing and in good standing under the laws of its state of incorporation and, to the best of said counsel's knowledge, is qualified to do business in other jurisdictions (including foreign countries) in which the nature of its business or the character of its properties makes such qualification necessary, or if not so qualified, is not subject to any material liability for its failure to qualify, and has full corporate power to carry on its business and to

own and operate its properties and assets now owned or operated by it; (ii) the authorized and outstanding capitalization of the Company is as specified pursuant to Paragraph 3.4(i) above; (iii) except as set forth on Exhibit "J", he does not know of any litigation, proceeding or governmental investigation pending or threatened against or relating to the Company or any of its properties or businesses or with respect to any of the capital stock of the Company; (iv) all proceedings required by law or by the provisions of this Agreement to be taken by the Seller in connection with the transactions provided for by this Agreement have been duly and validly taken; (v) to the best of such counsel's knowledge, the consummation of the transactions contemplated by this Agreement will not result in a breach of any of the provisions of, nor will it constitute a default under, nor will it invalidate or give any party a right to cancel or terminate any agreement or instrument to which the Company is a party; (vi) such counsel has no knowledge of any defects in the title to the assets and properties of, or to the capital stock of, the Company; and (vii) the Seller has the unrestricted right to transfer the shares of the Company to Titan and the certificates executed and delivered to Titan hereunder effectively vest in Titan good and marketable title to the shares of stock herein transferred, free and clear of any and all liabilities, obligations and encumbrances. In rendering his opinion, counsel for the Company may rely as to factual matters on certificates of

the Seller or of officers of the Company and upon such other evidence as he may deem necessary or desirable, including without limitation, opinions of associate counsel.

4.2 Further Documents, Etc. The Seller agrees that Seller will, upon request, from to time execute and deliver such other and further agreements as may be necessary and to testify in such proceedings and to do such other and further acts as may be necessary in the opinion of Titan's counsel to perfect the title to the shares of stock of the Company so sold hereunder in Titan or to protect the property of the Company, to aid in the prosecution or defense of other litigation or proceedings in connection with the business of the Company prior to the date hereof, all without further consideration but at the expense of the Company. The Seller agrees to cooperate and to use Seller's best efforts to have the officers, directors and other employees of the Company cooperate with Titan at its request and expense after the date hereof in endeavoring to effect the collection of all receivables and other items owing to the Company in connection with actions, proceedings, arrangements or disputes relating to the adjustment of federal income and other taxes of the Company for all periods prior to the date hereof, and in connection with any other actions, proceedings, arrangements or disputes involving the Company and/or Titan based upon contracts arrangements or acts of the Company which were in effect or occurred on or prior to the date hereof.

4.3 Negative Covenant. Faggen agrees that he will not, for a period of five (5) years from the date hereof, except as an employee of Titan, or an affiliate or subsidiary thereof, engage directly or indirectly as an officer, director, partner, employee, consultant, agent or otherwise in any business of the type carried on by the Company as of the date hereof in any area in which the Company was engaged in such business on the date hereof.

4.4 Indemnification by Seller. The Seller shall indemnify and hold harmless Titan against and in respect of:

(a) Any damage or deficiency resulting from any misrepresentation or breach of warranty contained in Paragraph "3" of this Agreement or from any misrepresentation or omission from any certificate or other instrument furnished to Titan under this Agreement.

(b) All judgments, costs and reasonable expenses (including attorneys' fees) incurred in connection with or resulting from any action, suit or proceeding incident to any of the provisions of subparagraph (a) of this Paragraph 4.4.

(c) Titan shall give the Seller prompt written notice of all claims, demands, actions, suits or proceedings threatened, made or commenced against Titan or the Company relating to any matter which the indemnity provided for in this Paragraph 4.4 applies. The Seller shall have the right, at Seller's expense, to defend any such claim, demand, action,

suit or proceeding, using counsel of his own choosing. In such case, Titan or the Company shall have the right to be represented therein at their own expense. Nothing contained in this paragraph shall limit the right of Titan or the Company to settle any action, suit or proceeding brought against them.

(d) Except as set forth in subparagraph (c) of this Paragraph 4.4, the Seller shall reimburse Titan on demand for any payment made by Titan or the Company at any time after the date hereof with respect to any liability, obligation or claim to which the indemnity contained in this Paragraph 4.4 relates.

(e) The rights granted to Titan pursuant to the provisions of this Paragraph 4.4 shall not be construed to constitute a waiver by Titan of any of its remedies at law or in equity that it may have as a result of any misrepresentation or breach of warranty contained in this Agreement or nonperformance of any agreement on the part of the Seller under this Agreement or from any misrepresentation or omission from any certificate or other instrument furnished or to be furnished to Titan under this Agreement.

(f) The Seller shall be entitled to deduct the aggregate sum of $ from the total indemnity which the Seller shall owe to Titan pursuant to this Paragraph 4.4.

(g) The liability of the Seller under this Paragraph 4.4 or for breach of warranty shall completely terminate on March 31, 1970, except:

(i) As to any claim, demand, action, suit or proceeding of which notice is given as required by subparagraph (d) prior thereto; and

(ii) As to any liability asserted or claimed against the Company or Titan for United States income taxes or any other taxes, federal, state or local, relating to the operations of the Company prior to October 1, 1968, in excess of the reserve therefor set forth on the Company's Trial Balance Sheet as at September 30, 1968.

5. Representations and Warranties of Titan. Titan hereby represents and warrants the following:

5.1 Financial Statements. Attached hereto and made a part hereof, marked Exhibit "P", are consolidated financial statements for Titan and its subsidiaries as at and for the fiscal year ended December 31, 1967, and as at and for the six months ended June 30, 1968.

The foregoing financial statements (i) are in accordance with the books and records of Titan and its subsidiaries respectively, (ii) set forth fairly Titan's and its subsidiaries' consolidated financial condition and the consolidated results of their operations as at the relevant dates thereof and for the periods covered thereby, all prepared in accordance with

generally accepted accounting principles, (iii) contain and reflect all necessary adjustments for a fair presentation of the results of operations and financial condition for the periods covered by said financial statements, and (iv) with respect to any of Titan's contracts and commitments, contain and reflect reserves for all material liabilities and for all reasonably anticipated material losses and costs in excess of expected receipts.

5.2 Organization and Good Standing of Titan and its Subsidiaries. Titan is a corporation dul organized and existing and in good standing under the laws of the State of Delaware. Each of the material subsidiaries of Titan is a corporation duly organized and existing and in good standing under the laws of the respective state of its incorporation. Titan and its subsidiaries have full corporate power to carry on their respective businesses and to own and operate their respective properties and assets now owned or operated by them.

5.3 Authority of Titan. The execution of this Agreement by Titan and its delivery to the Seller have been duly authorized by the Board of Directors of Titan, and no further corporate action will be necessary on the part of Titan to make this Agreement valid and binding upon Titan in accordance with its terms.

5.4 Absence of Certain Changes. Since June 30, 1968, there has not been any material adverse change in the financial condition, assets or business of Titan and its subsidiaries other than changes in the ordinary course of business. Subsequent to June 30, 1968, Titan sold certain of its assets which were carried on the books at that date in exchange for cash and certain mortgages. During its current fiscal year, Titan contemplates debiting the proceeds of such sales and crediting a new account, "Reserve for Losses," from which future losses, if any, incurred upon the sale of certain assets will be deducted.

5.5 Issuance of Notes. The issuance by Titan of the Notes has been duly authorized by all necessary corporate action on the part of Titan and the Notes, when executed and delivered to the Seller in accordance with the terms and conditions of this Agreement, shall constitute valid and legally binding obligations of Titan, enforceable in accordance with their terms, except as limited by bankruptcy, insolvency, reorganization or similar laws, and shall be entitled to all of the benefits provided by this Agreement.

5.6 Common Stock of Titan to be Issued. The shares of common stock issuable upon any conversion of the Notes will, when issued in accordance with the terms of said Notes, be validly issued and outstanding, fully paid and nonassessable.

Defendant's Exhibit G

5.7 Material Misstatements or Omissions. No representations or warranties by Titan in this Agreement, nor any document, statement, certificate or schedule furnished or to be furnished to the Seller pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

6. Federal Securities Act.

Defendant's Exhibit G

7. Obligations and Covenants of Titan. Titan hereby covenants and agrees as follows:

7.1 Reservation of Shares. Titan shall hereafter keep reserved a sufficient number of shares of its Common Stock for the purpose of enabling, at all relevant times, the conversion of the Notes.

7.2 Opinion of Titan's Counsel. Contemporaneously with the execution of this Agreement, Titan has delivered to the Seller an opinion of its counsel, Robinson, Silverman, Pearce, Borden and Ball, stating (i) Titan is a corporation duly organized and existing and in good standing under the laws of the state of its incorporation; (ii) this Agreement has been duly and validly authorized, executed and delivered by Titan and is valid and binding upon Titan and its stockholders in accordance with its terms; (iii) the issuance and delivery of Titan's Notes to the Seller have been duly authorized by all necessary corporate action on the part of Titan and the Notes, when executed and delivered in accordance with the terms and conditions of this Agreement, will constitute valid and legally binding obligations of Titan, enforceable in accordance with their terms, except as limited by Bankruptcy, insolvency, reorganization and similar laws, and (iv) the issuance and delivery of Titan's Notes and the issuance of Titan's Common Stock upon conversion of the Notes, have been duly authorized by the stockholders of Titan (to the extent necessary) and such stock issuable upon conversion will, when issued, be validly issued, fully paid and nonassessable. In rendering their opinion, counsel for Titan may rely as to

factual matters on certificates of officers of Titan and such other evidence as they may deem necessary or desirable, including, without limitation, opinions of associate counsel.

7.3 Pension Plan of the Company to remain effective.

8. Other Acquisitions, etc., by Titan. It is understood and agreed by the Seller that, notwithstanding anything to the contrary herein contained, Titan may issue additional shares of its capital stock (whether Common or Preferred) or any other securities (whether convertible into capital stock or not), options or warrants, pursuant to a bona fide sale thereof, or with respect to the exercise of any stock options, or in connection with the acquisition of assets of, or stock of, other corporations, partnerships or proprietorships which Titan may desire to acquire, or in any other bona fide and arm's-length transaction, and that any such sale, issuance or acquisition shall not affect the terms hereof.

9. Survival of Representations.

9.1 All statements contained in any certificate or other instruments delivered by or on behalf of Titan or the Seller pursuant hereto, or in connection with the transactions contemplated hereby, shall be deemed representations and warranties by Titan and the Seller hereunder. Subject to subparagraph (g) of Paragraph 4.4, all representations, warran-

ties and agreements made by Titan and the Seller shall survive the closing and any investigation at any time made by or on behalf of Titan or the Seller.

10. Benefit. This Agreement binds and benefits the successors and assigns of the parties hereto.

11. Paragraph Headings. The paragraph headings set forth herein are included for convenience only and shall not in any way affect the meaning or construction of this Agreement.

12. Gender. The use of the masculine gender shall include the feminine wherever applicable.

13. Entire Agreement. This Agreement contains the entire understanding of the parties hereto relative to the subject matter hereof and may not in any way be altered, amended, modified or abrogated except by a writing signed by all of the parties hereto.

14. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or if mailed, by United States certified or registered mail, prepaid, to the parties or their assignees at the following addresses (or at such other address as shall be given in writing by either party to the other):

Titan Group, Inc.
529 Fifth Avenue
New York, New York

The Seller

Defendant's Exhibit G

15. Remedies Not Exclusive. No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by Titan or the Seller shall not constitute a waiver of the right to pursue other available remedies.

16. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

18. Construction. This Agreement shall be construed in accordance with the law of the State of New York applicable to agreements made and performed in New York.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

TITAN GROUP, INC.

(Corporate Seal)

By_____

Attest:

_____

The Seller

_____

Defendant's Exhibit G

EXHIBIT B

TITAN GROUP, INC.

4% CONVERTIBLE INSTALLMENT NOTE

DUE NOVEMBER 1, 1978

NUMBER_____ New York, New York

$_____ _____

TITAN GROUP, INC., a Delaware corporation (hereinafter called "the Company"), for value received, hereby promises to pay _____

_____

or order, the principal sum of _____ Dollars in such coin or currency of the United States of America as at the time of payment (as hereinafter set forth) shall be legal tender for the payment of public and private debts, upon surrender hereof for payment in full at the principal office of the Company, 529 Fifth Avenue, New York, New York, and to pay interest on the unpaid principal hereof from the date hereof at the rate of 4% per annum, in like coin or currency, semi-annually on May 1 and November 1 of each year, until such principal sum shall have become due and payable, and to pay interest at the rate of 7% per annum on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the due date thereof, until the obligation of the Company with respect to the payment thereof shall be discharged.

This Note is one of the Notes of the Company, aggregating $5,500,000 in original authorized principal amount, executed and delivered by the Company pursuant to a certain Agreement dated _____, between the Company and Holders therein named, and all persons who shall from time to time

be holders of any of such Notes. The Company hereby agrees with the Holder of this Note that it will perform and observe each of its covenants and agreements contained in said Agreement, as from time to time amended and supplemented, the provisions of which Agreement are hereby incorporated herein by reference with the same effect as if herein set forth in full.

1. Payment of Principal.

The principal sum of this Note and all interest then accrued and unpaid shall become due and payable as follows:

November 1, 1977	10% of the original face amount hereof.
November 1, 1978	the balance of the original face amount hereof.

Notwithstanding the foregoing, if (a) the Company shall (i) admit in writing its inability to pay its debts generally as they become due, (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a receiver for itself or for the whole or any substantial part of its property, (v) on a petition in bankruptcy filed against it, be adjudicated a bankrupt, or (vi) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof; or (b) if a court of competent jurisdiction shall enter an order, judgment or decree appointing, without the consent of the Company, a receiver of the Company, or of the whole or any substantial part of its property, or approving a petition filed against it seeking reorganization or arrangement of the Company under the Federal bankruptcy laws or any other applicable law or statute of the United

States of America or any State thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or (c) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its property and such custody or control shall not be terminated or stayed within sixty (60) days from the date of assumption of such custody or control; then, in any such event, at the option of the holder of any Note exercised by written notice to the Company at its principal office, such Note, together with the interest accrued thereon, shall forthwith become and be due and payable.

2. Register of Notes.

The Company or its duly appointed agent shall maintain a register or registers in which it shall register all of the Notes and shall transfer them in accordance with the terms hereof and of the said Agreement. The Notes shall be transferred only on the register or registers maintained by the Company or its agent and the Company shall be entitled to regard the registered holder as the actual holder of the Note so registered for all purposes until a transfer has been effected by the Company or its agent. The Company or its agent shall not be required to make any transfer unless and until it shall receive the Note to be transferred duly and properly endorsed or signed by the registered holder thereof or by his attorney duly authorized in writing and unless and until the registered holder is entitled to transfer the same under the provisions hereof and of the said Agreement.

3. Prepayment.

The Company may not prepay any of the Notes, or any part thereof, prior to November 1, 1971. Thereafter, the

Company, at its election, subject to the giving of notice as provided below, may prepay the principal amount of the outstanding Notes, in whole or in part, at the respective amounts set forth below plus interest accrued and unpaid to the date of prepayment.

If Redeemed During the Twelve Months Period Commencing November 1	Redemption Price (as a Percent of Principal Amount)
1971	105%
1972	104-1/6%
1973	103-1/3%
1974	102-1/2%
1975	101-2/3%
1976	100-5/6%
1977	100%

Notwithstanding the foregoing, the Company shall have the option at any time in the event of any merger or consolidation of the Company with or into, or the sale of substantially all of its assets to, any other corporation, to call for prepayment without penalty any or all of such Notes at the face amount plus interest accrued and unpaid to the date of prepayment or to cause without penalty such other corporation or any surviving or resulting corporation to assume the Company's obligations under the said Agreement, in the manner and fashion set forth in the last paragraph of Section 4 below.

In the case of any prepayment of the Notes, or any part thereof, notice thereof shall be given not less than thirty (30) nor more than sixty (60) days prior to the date fixed in such notice for such prepayment, (hereinafter referred to as the "Prepayment Date"). Such notice shall be sent by registered or certified mail, postage prepaid, to each of the holders of the Notes then outstanding at the most recent

address of such holders as reflected in the register or registers of Notes maintained by the Company, and said notice shall be deemed given when deposited in the mail.

In the case of any prepayment of less than the entire unpaid principal amount of all outstanding Notes, the amount to be prepaid shall be applied pro rata to all outstanding Notes according to the respective unpaid principal amounts thereof.

4. Conversion Privilege.

Any holder of any Note, at his option, at any time after the issuance of the Notes, and from time to time up to noon, New York time, on the fifth day before the Prepayment Date or the final maturity date (whichever is applicable), may convert such Note, or any part thereof, held by him into Common Stock of the Company, at the rate and upon the terms hereinafter set forth. Such conversion shall be at the rate of one whole share of Common Stock for each Twenty Dollars ($20.00) [Fifteen Dollars ($15.00) in the case of Seven Hundred Fifty Thousand Dollars ($750,000.00) in aggregate face amount of Notes] of the unpaid principal amount of each Note, subject to adjustment as provided herein. No fractional shares will be issued in connection with any such conversion, but in lieu of such fractional shares, the Company shall make a cash payment therefor equal in amount to the product of the applicable fraction multiplied by the conversion price then in effect.

To convert, the holder of any Note shall deliver written notice of his election to so convert, and shall surrender such Note appropriately endorsed, to the Company at its principal office. The date of conversion of such Note shall be deemed to be the date of receipt of such Note by

the Company, provided it is accompanied by the required written notice, even if the Company's stock transfer books are at the time closed, and the converting holder shall be deemed to have become, on the date of conversion, the record holder of the shares of Common Stock deliverable upon such conversion.

As soon as reasonably possible, after the date of conversion, the Company shall issue and deliver to such converting holder a certificate or certificates for the number of shares of its Common Stock due on such conversion. No adjustment shall be made in the number of shares of Common Stock issuable upon conversion of the Notes on account of interest accrued but not yet due and unpaid to the date of conversion nor shall any such interest be paid upon such conversion; provided, however, that the amount of any interest theretofore due and unpaid at the date of conversion shall be paid by the Company upon conversion but shall not be convertible into Common Stock. The issuance of Common Stock certificates on conversion shall be made without charge to the holder of the converted Note for any issuance or transfer tax in respect of such issuance.

The Company shall not, however, be required to pay any tax which may be payable in respect to any transfer involved in the issue and delivery of shares of Common Stock in any name other than that of the holder of the converted Note, and the Company shall not be required to issue or deliver any such Common Stock certificate unless and until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

Defendant's Exhibit G

In no event shall the Company be liable to any person or entity for failure to sell or issue any of its Common Stock upon conversion of the Notes unless and until all requisite authority under applicable rules and regulations of any state or federal regulatory agencies for such sale or issuance has been obtained and all applicable state or federal laws have been complied with. Subject to the provisions hereof and of the said Agreement, the Company covenants and agrees that it will use its best efforts to obtain such authority and to insure compliance with applicable laws without necessary delay.

In the event the Company shall at any time change the outstanding shares of Common Stock issuable upon conversion of the Notes, by way of stock dividend, stock split, reverse stock split or similar reclassification (all such changes are hereinafter referred to as "Reclassifications") of the capital stock of the Company, the conversion price of the Common Stock as defined above shall be proportionately decreased or increased. Any such adjustment shall become effective at the close of business on the date that any such Reclassification shall become effective. Notice of any such adjustment shall be mailed (by first class mail) by the Company to the holders of the Notes at the most current address reflected in the register or registers of Notes maintained by the Company.

In the event that after the date hereof the Company shall merge or consolidate into another corporation, or shall sell, transfer or otherwise dispose of all or substantially all of its property, assets or business to another corporation and pursuant to the terms of such merger, consolidation or disposition of assets, shares of Capital stock of the Successor or Acquiring Corporation shall be received by or

distributed to the holders of Common Stock of the Company, and in the event and to the extent that the Company shall not elect to prepay the Notes or any portion of them pursuant to Paragraph 3 above, the Successor or Acquiring Corporation shall execute an agreement supplemental hereto assuming all of the Company's obligations hereunder and providing that the Notes shall thereafter be convertible into shares of Capital Stock of the Successor or Acquiring Corporation in the same manner as if such Notes had been converted into Common Stock of the Company immediately prior to such event.

The Company covenants and agrees that during the period during which the Notes shall be convertible, the Company will at all times have authorized and reserved for the purpose of issue upon exercise of the conversion privilege a sufficient number of shares of its Common Stock.

5. Transfer Without Registration.

No holder of any Note or Common Stock issuable upon conversion of any Note shall transfer such Note or Common Stock issuable upon conversion thereof (hereinafter referred to as "Note Stock") unless each of the following conditions has been satisfied:

(a) The Company shall have received written notice of the proposed transfer, setting forth the circumstances and details thereof;

(b) The Company shall have received a written opinion from the law firm of _____ (or another law firm satisfactory to the Company) specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder; and

(c) The Company shall have received a written opinion from its counsel to the effect that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder.

6. Subordination Provisions.

The Holder hereof agrees that the payment of the principal, premium, if any, and interest on this Note is expressly subordinated to the prior payment of any and all Senior Debt of the Company or any of its subsidiaries. "Senior Debt" for this purpose means the principal of (and premium, if any) and interest on the following, whether outstanding at the date hereof or hereafter incurred or created: (a) indebtedness of the Company or any of its subsidiaries for money borrowed or other indebtedness to banks or financial institutions evidenced by notes or other written obligations, (b) indebtedness of the Company or any of its subsidiaries evidenced by notes, debentures (other than this Note and those others of like tenor issued concurrently herewith), bonds or other securities issued under the provisions of any indenture or similar instrument, (c) indebtedness of others of either of the kinds described in the preceding clauses (a) and (b) assumed or guaranteed by the Company or any of its subsidiaries and (d) renewals, extensions and refunding of indebtedness of the kinds described in the preceding clauses (a), (b) and (c), together with any liability or obligation of the Company or any of its subsidiaries to pay money (other than as lessor) in connection with any lease of equipment; unless in the case of any particular indebtedness, renewal, extension or refunding, or liability or obligation

in connection with any lease of equipment, the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such indebtedness, renewal, extension or refunding, or liability or obligation in connection with any lease of equipment, the instrument creating or evidencing the same or the assumption or guarantee thereof expressly provides that such indebtedness, renewal, extension or refunding, or liability or obligation in connection with any lease of equipment, is not superior in right of payment to this Note. So long as no default and no event which would become an event of default upon the lapse of time or upon the notice and lapse of time specified has occurred under or with respect to any such Senior Debt and no default or event of default will be created by such payment or payments, the Company may pay to Holder hereof interest and principal as provided herein, which payments on interest and principal of this Note are hereafter referred to as Allowed Payments.

Until all present or future Senior Debt has been paid in full, unless with the prior written consent of the holder or holders of the Senior Debt, the Holder hereof agrees not to subordinate the payment hereof to the claim of any other creditor of the Company or any of its subsidiaries and not to receive or accept, other than Allowed Payments, any payment (directly or indirectly) or to borrow any money or property from the Company or any of its subsidiaries, and the Company agrees not to pay (and to cause its subsidiaries not to pay), other than Allowed Payments, any part of the indebtedness evidenced by this Note or to loan to or give any money or property to the Holder hereof.

Any payments, which shall include any and all moneys

received by the Holder hereof from the foreclosure of any collateral given to secure payment hereof, received directly or indirectly from the Company or its subsidiaries or their properties contrary to the provisions of this Paragraph 6 or by reason of insolvency, assignment for benefit of creditors, bankruptcy, receivership of or attachment or execution or other sale of assets of the Company or its subsidiaries, will be paid by the Holder hereof to the holder or holders of Senior Debt promptly upon demand to the extent necessary to pay the Senior Debt in full.

The Holder hereof agrees, that in the event of insolvency, assignment for benefit of creditors, bankruptcy, receivership or other proceedings tending towards liquidation of the business and assets of the Company immediately to file its or his claim for the unpaid balance of its or his Note in the form required in said proceedings and cause said claim to be approved, and the Holder hereof will immediately thereafter assign and transfer to the holders of Senior Debt all of its or his right, title and interest in and to the claim which was filed. If the Holder hereof does not file a proper claim or proof of debt in the form required in such proceeding prior to thirty (30) days before the expiration of the time to file such claim, then the holder or holders of Senior Debt have the right to and are hereby authorized to file an appropriate claim or claims for and on behalf of the Holder hereof.

The Holder hereof hereby assigns, transfers and conveys to the holder of Senior Debt, all of its or his interest in and to any and all such claims as may be filed against the Company in liquidation and expressly authorizes and directs any assignee, trustee in bankruptcy, receiver or

Other person in charge to pay and deliver to the holder of Senior Debt sufficient of the dividends and other property distributed to pay the Senior Debt in full.

It is agreed that the provisions of this Paragraph 6 are and are intended solely for the purpose of defining the relative rights of the Holder hereof and of the Senior Debt and nothing in this paragraph shall or is intended as between the Company and the Holder hereof to impair the obligation of the Company which is unconditional and absolute, to pay to the Holder of this Note the principal thereof and interest thereon or to affect the relative rights of the Holder hereof and creditors of the Company other than the holders of Senior Debt, nor shall anything in this Paragraph 6 prevent the Holder hereof from exercising all remedies otherwise permitted by applicable law upon default under this Note subject to the rights under this Paragraph 6 of the holders of Senior Debt in respect to cash or property of the Company received upon the exercise of any such remedy.

7. Legend.

It is understood and agreed by the parties hereto, and all persons who shall from time to time be holders of any of the Notes or Note Stock, that the Note Stock shall bear a legend substantially as follows:

"The transfer of the shares represented by this certificate is subject to the conditions specified in the Agreement dated _____, 1968, providing for the issuance of Notes pursuant to the conversion of which such shares were issued and sold by Titan Group, Inc. (the "Company") and no transfer of such shares shall be valid or effective until such conditions have been fulfilled. A copy of such

Agreement is on file and may be inspected at the principal office of the Company. The holder of this certificate, by acceptance of this certificate, agrees to be bound by the provisions of such Agreement and to indemnify and hold harmless the Company, and other persons specified in such Agreement, against loss or liability arising from the disposition of the shares represented by this certificate in violation of such provisions."

8. Attorneys' Fees.

In the event that legal action becomes necessary to enforce the terms and conditions of this Note, the losing party in such legal action shall pay all the incidental costs and reasonable attorneys' fees incurred by the prevailing party.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN, NO TRANSFER OF THIS NOTE OR OF THE STOCK PURCHASABLE HEREUNDER OR OF ANY INTEREST IN EITHER THEREOF SHALL BE VALID OR EFFECTIVE UNTIL THE CONDITIONS SPECIFIED IN THE HEREINMENTIONED AGREEMENTS HAVE BEEN FULFILLED. THE HOLDER OF THIS NOTE, BY ACCEPTANCE OF SAME, AGREES TO BE BOUND BY THE PROVISIONS OF SUCH AGREEMENTS AND TO INDEMNIFY AND HOLD HARMLESS THE COMPANY AGAINST LOSS OR LIABILITY ARISING FROM THE DISPOSITION OF THIS NOTE OR THE STOCK PURCHASABLE HEREUNDER OR ANY INTEREST IN EITHER THEREOF IN VIOLATION OF SUCH PROVISIONS.

TITAN GROUP, INC.

By_____
President/Vice President

By_____
Secretary/Assistant Secretary

1666

DEFENDANT'S EXHIBIT H

LAW OFFICES
SIDNEY B. SILVERMAN
233 BROADWAY
NEW YORK, N. Y. 10007

TELEPHONE 267 6370

September 14, 1971

JOAN T. HARNES
JEWEL H. BJORK

BY HAND

Robert J. Frankel, Esq.,
Chairman, Board of Directors
Titan Group, Inc.
1325 Inwood Terrace
Fort Lee, New Jersey

Re: Titan v. Faggen and Robinson

Dear Bob:

You have requested that I undertake an independent investigation of the facts and circumstances surrounding the acquisition by Titan of the Faggen Companies. I have examined all available material, and based upon my examination of this material I have concluded that Titan has a meritorious claim against Benjamin J. Robinson, Esq. and Harold A. Faggen. The claim against defendant Robinson is based upon a violation of his common law duty to exercise due care in the conduct of the negotiations with Faggen. Liability against Faggen is premised upon his knowledge that Robinson is not exercising due care and his complicity with Robinson in the violation of Robinson's fiduciary duty.

At the suggestion of your general counsel, I have reconsidered the question of whether a claim can be stated under Rule 10b-5. It is my judgment now, as it was when I prepared a draft of the complaint, that liability cannot be based upon a violation of that rule. Reliance is an essential ingredient of a 10b-5 action. Since Faggen's position was adverse to that of Titan's, Titan had an affirmative obligation to make its own investigation and cannot rely upon representations made by Faggen. The failure to make an adequate investigation does not give rise to a 10b-5 liability, but rather to the common law liability set forth above and spelled out in the complaint.

Frankel Ex 21
for ID
4/4/75.

Defendant's Exhibit H

SIDNEY B. SILVERMAN

If you or Titan's board of directors desire further information, please feel free to call upon me.

Sincerely,

Sidney

Sidney B. Silverman

SBS:GRF

DEFENDANT'S EXHIBIT I

SUMMONS IN A CIVIL ACTION (Formerly D. C. Form No. 45 Rev. (1941)) CIV. 1 (1941)

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO. _____

TITAN GROUP, INC.,

Plaintiff

v.

HAROLD FAGGEN and BENJAMIN M. ROBINSON,

Defendants

SUMMONS

To the above named Defendants:

You are hereby summoned and required to serve upon Sidney B. Silverman,

plaintiff's attorney, whose address is 233 Broadway, New York, N. Y. 10007,

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

_____
Clerk of Court.

_____
Deputy Clerk.

Date: New York, N. Y., September , 1971.

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Defendant's Exhibit I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

TITAN GROUP, INC.,

Plaintiff,

-against-

HAROLD FAGGEN and BENJAMIN M. ROBINSON,

Defendants.

: Civil Action No.

: COMPLAINT

----------x

Plaintiff, by its attorney, Sidney B. Silverman, alleges upon information and belief, except for Paragraphs "1" and "2" which are alleged upon knowledge, as follows:

COUNT ONE

1. The jurisdiction of this Court is based upon diversity of citizenship:

(a) Titan Group, Inc. (Titan) is a corporation organized under the laws of the State of Delaware. It maintains its principal executive offices at 1325 Inwood Terrace, Fort Lee, New Jersey.

(b) The defendants Robinson and Faggen are citizens of the State of New York.

(c) The amount in controversy, exclusive of interest and costs, exceeds $10,000.

(d) This action has not been collusively brought to confer jurisdiction upon this Court.

2. Titan was engaged, prior to December 2, 1968, in real estate and insurance businesses. Titan had, on December 2, 1968, about 3,700,000 shares of common stock issued and outstanding. These shares were widely held by members of the investing public.

3. (a) Defendant Robinson is an attorney admitted to practice in the State of New York. He is a partner in th New York

law firm of Robinson, Silverman, Pearce, Aronsohn & Sand, which maintains offices at 230 Park Avenue, City, County and State of New York.

(b) On and prior to December 2, 1968, defendant Robinson was a director of Titan, Chairman of its board of directors, and chief executive officer. His law firm served as general counsel for Titan.

(c) Defendant Robinson has continuously since at least 1946 engaged in business activities with defendant Faggen, Harold Faggen Associates, Inc., Actuarial Tabulation Corporation, Employee Fund Services Corp., and Fund S&E Corp. These corporations are hereinafter sometimes referred to as the Faggen Corporations.

4. Defendant Faggen was the sole owner of the Faggen Corporations. He had knowledge of the facts hereinafter set forth.

5. On December 2, 1968, Titan entered into an agreement to purchase the Faggen Corporations. The purchase price was payable in 4% convertible installment notes for each of the Faggen Corporations as set forth below:

Name	Price Paid
Harold Faggen Associates, Inc.	$3,960,000
Actuarial Tabulation Corp.	$1,000,000
Employee Fund Services Corp.	$ 500,000
Fund S&E Corp.	$ 40,000
	$5,500,000

6. (a) Titan paid an excessive price for the Faggen Corporations. The payment by Titan represented a waste of its assets.

(b) Titan could not anticipate sufficient income from the Faggen Corporations to service the interest charges on the Convertible Notes. The acquisition was, therefore, an improvident one for Titan.

7. The acquisition of the Faggen Corporations was not the result of arm's-length bargaining. Defendant Robinson represented Titan and in view of his prior representation of defendant Faggen could not and did not adequately represent Titan. The directors of Titan relied upon defendant Robinson to represent the best interests of Titan in its negotiations with defendant Faggen.

8. (a) The directors of Titan were not informed that the financial statements of the Faggen Corporations which were used to establish the purchase price were unaudited and contained the following caveat issued by the accounting firm of Joseph Warren & Co.:

> "The statement of income and expenses does not properly reflect the earnings for the period. The income is overstated because and to the extent that the opening balances on an accrual basis have not been taken into account."

(b) A reasonable and prudent man, in the conduct of his own affairs, would in light of the lack of an unaudited financial statement and the caveat issued as set forth above have refused to purchase the Faggen Corporations or insisted upon a strict warranty from defendant Faggen as to the correctness of the historic financials of the Faggen Corporations.. Titan directors, unaware of the fact, chose neither course of action.

9. (a) At the board meeting at which the acquisition of the Faggen Corporations were discussed and approved, the board was given a schedule reflecting the purported pre-tax net income

of the Faggen Corporations for the years 1965 through 1968. The schedule reflected pre-tax net income for this period, as follows:

Year	Net Income
1965	$380,802
1966	$490,754
1967	$451,885
1968	$571,262

(b) The aforesaid schedule was false and misleading. The net income of the Faggen Corporations for 1965-1968 as reflected on federal tax returns was materially different. The tax returns reflect net income for this same period, as follows:

Year	Taxable Income
1965	$247,223
1966	$340,335
1967	$232,185
1968	$347,601

10. (a) The Faggen Corporations specialize in actuarial, consulting, and computer services to labor management, pension and welfare funds. The success of their operations depends, to a large extent, upon the services of key personnel. A reasonable and prudent man, before purchasing the Faggen Corporations, would insist upon long-term employment contracts with key personnel. In fact, the key personnel of the Faggen Corporations, except for defendant Faggen, were not tied down to long-term contracts. Less than three weeks after Titan acquired the Faggen Corporations, two key employees left the Faggen Corporations and accepted employment

with a competitor. These key employees diverted to the competitor of the Faggen Corporations a substantial part of the Faggen Corporations' business.

(b) Defendants Robinson and Faggen failed to inform Titan's directors that key personnel of the Faggen Corporations were not under contract with the Faggen Corporations and either knew or should have known that the departure of these key employees could seriously impair the operations of the Faggen Corporations.

11. Titan and its directors were misled and deceived by defendants Robinson and Faggen, who knowingly or with reckless disregard for the consequences, failed to adequately inform them of the uncertainties and risks involved in the acquisition of the Faggen Corporations and their true worth. The failure of defendants Robinson and Faggen to inform Titan's directors of these facts constituted a fraud and deception upon Titan.

12. The circumstances surrounding the acquisition of the Faggen Corporations were falsely described to the Titan shareholders. In proxy solicitation material dated May 1, 1969 (Proxy Statement), it was stated that:

> "The amount of Convertible Installment Notes delivered to Mr. Faggen was arrived at as a result of arms-length negotiations between the parties, with each side separately represented by counsel, based upon the financial condition and past earnings history, and after a thorough investigation of the business and assets of the companies acquired from Mr. Faggen."

13. The Proxy Statement was false and misleading. The acquisition of the Faggen Corporations was not based on "arm's-length negotiation" nor upon accurate or reliable financial

statements which reflected the "financial condition and past earnings history" of the Faggen Corporations, nor was there a "thorough investigation of the business and assets" of the Faggen Corporations.

14. The use of the false and misleading Proxy Statement constituted a fraud upon Titan and its shareholders.

COUNT TWO

15. Plaintiff realleges Paragraphs "1" through "14."

16. On or about August 22, 1962, Titan, then known as The Futterman Corporation, entered into an employment agreement (the Employment Agreement) with defendant Robinson. The Employment Agreement fixed defendant Robinson's compensation at $30,000 from August 22, 1962 to December 31, 1962 and thereafter at the annual rate of $30,000 through December 31, 1967. The Employment Agreement also granted defendant Robinson a five year, restricted stock option on 50,000 shares of Titan's common stock at $7.50 per share. Defendant Robinson, in turn, was obligated to "use his best efforts to promote the interest of [Titan]" and not to engage in any activity which conflicts with "his duties and responsibilities" to Titan.

17. On or about January 1, 1967, the Employment Agreement was amended. The amendment extended the termination of the Employment Agreement from December 31, 1967 to December 31, 1970 and increased defendant Robinson's compensation from $30,000 to $50,000. In addition, the amendment obligated Titan to pay to defendant Robinson, or in the event of his death to his estate or designee, at the termination of defendant Robinson's employment, the sum of $2,083.33 per month for a period of time equal to the

time defendant Robinson was employed by Titan beginning with November 1961. All other terms and provisions of the Employment Agreement remained effective.

18. (a) In the years 1964 through 1968, defendant Robinson received compensation from Titan, as follows:

Year	Amount
1964	$45,000
1965	$45,000
1966	$80,000
1967	$60,000
1968	$60,000

(b) Defendant Robinson should not have received more than $30,000 per annum from 1964 through 1967 and no more than $50,000 for 1968. The excess paid to defendant Robinson by Titan was unlawful, was without consideration, and constituted a gift and waste of Titan's assets.

19. Defendant Robinson has not used his best efforts to promote the interests of Titan nor has he refrained from engaging in activities which conflicted with the best interests of Titan, as hereinbefore set forth. Defendant Robinson's failure to perform in accordance with the Employment Agreement entitled Titan to recover from defendant Robinson all compensation paid by it to him.

WHEREFORE, plaintiff prays for judgment, as follows:

(a) Rescinding the acquisition of the Faggen Corporations by Titan;

(b) Assessing damages against defendants;

Defendant's Exhibit I

(c) Requiring defendant Robinson to account for all past compensation paid by Titan to him;

(d) Cancelling and declaring null and void the Employment Agreement;

(e) Awarding punitive damages against defendants in the amount of $5 million;

(f) Taxing the cost and expense of this action against defendants, including a reasonable attorneys and accountants fee; and

(g) Such other and further relief as to this Court may be just and proper.

SIDNEY B. SILVERMAN,
Attorney for Plaintiff
233 Broadway
New York, N. Y. 10007
267-6370

Exhibit [illegible]

TITAN [illegible]
FASSON [illegible]
12-31-[illegible]

ASSETS

Current assets:
Cash including certificates of dep

Marketable securities, at cost (at a
$1,386,128; 9/31/68 $1,300,007)

Notes and accounts receivable (*less
for doubtful accounts 12/31/68, $[illegible]

Prepaid expenses and other assets
Total current assets

Due to parent company

Furniture and equipment
Less accumulated depreciation

Construction in progress

Total Assets

LIABILITIES AND SHAREHOLDERS' EQUITY

Current Liabilities:
Accounts payable and accrued liabi
Provision for taxes

Total current liabilities

Deferred Income taxes
Fees collected in advance
Advance to (from) affiliate
Shareholders' equity:
Common stock
Retained earnings
Total shareholders' equity

INC.
STATEMENT

W. P. No: L-1
ACCOUNTANT: Shenk / Krall
DATE: Various

[redacted]

FACCHIA DIVISION
Individual and Combined Balance Sheets
December 31, 1968 and September 30, 1968

	December 31, 1968						September 30, 1968			
	Harold Faggen Associates Inc.	Actuarial Tab Corp.	Employee Fund Service Corp.	Fund [illegible] Corp	Combined	Combined	Harold Faggen Associates Inc.	Actuarial Tab Corp.	Employee Fund Service Corp.	Fund [illegible] Corp.
...ts	$223,441	$13,679	$ 2,745	$ [illegible],310	$246,375	$267,172	$231,778	$25,834	$ 6,445	$ 3,114
...et 12/31/68,	628,244	212,453	137,592	6,7771	985,060	986,329	688,087	211,977	137,524	6,771
...eserves for 9/30/68, $6,000)	272,059 282,059 10,000	77,168	21,306	1,6626	372,189 ~~397,159~~	~~850,905~~ ~~868,905~~	~~[illegible]~~ ~~[illegible]~~	24,550	16,220	4,429
	708	83	-	-	791	44,715	1,444	43,251	-	-
	~~$1,349,452~~	303,383	161,643	~~14,9807~~	~~[illegible]~~	~~[illegible]~~	~~[illegible]~~	305,612	160,189	14,314
	$ 1,124,952				1,654,173	1,647,077	1,164,895			
	25,289	-	-	-	25,289	-	-	-	-	-
	32,325	-	-	-	32,325	61,431	61,431	-	-	-
	25,081	-	-	-	25,081	42,590	42,590	-	-	-
	7,244	-	-	-	7,244	18,841	18,841	-	-	-
	13,327	-	-	-	13,327	-	-	-	-	-
	20,571	-	-	-	20,571	18,841	18,841	-	-	-
	$ 1,170,312 ~~$1,349,452~~	303,383	161,643	~~14,9807~~	1,650,305 ~~[illegible]~~	1,645,998 ~~[illegible]~~	1,185,813 ~~[illegible]~~	305,612	160,189	14,314
...ties	15,643	888	-	-	16,446	48,512	47,512	1,000	-	-
	51,760	24,073	3,581	2,290	81,704	145,176	112,041	20,723	10,800	1,612
	$67,403	24,876	3,581	2,290	98,150	193,688	159,553	21,723	10,800	1,612
	~~$97,600~~ 97,600	16,600	9,800	300	173,100 ~~[illegible]~~	~~[illegible]~~ 356,608	116,800 ~~[illegible]~~	14,200	4,900	1,700
	5,821	-	-	-	5,821	7,847	7,847	-	-	-
	20,000	(20,000)	-	-	-	-	-	-	-	-
	791,300	300	1,000	1,600	2,600	2,600	891,300	300	1,000	1,000
	~~$43,488~~	281,607	147,262	11,317	~~[illegible]~~	~~[illegible]~~	~~[illegible]~~	269,389	143,489	10,002
	843,488	281,907	148,262	12,317	1,386,976	1,393,823	998,643	269,689	144,489	11,002
	~~$1,105,312~~	303,383	161,643	14,907	~~[illegible]~~	~~[illegible]~~	~~[illegible]~~	305,612	160,189	14,314
	$ 1,170,312				1,680,976	1,645,998	1,185,813			

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Defendant's Exhibit J

JOSEPH WARREN & CO.

HAROLD FAGGEN ASSOCIATES, INC.

BALANCE SHEET

SEPTEMBER 30, 1968

Per Page 2 Contract

ASSETS

Cash in bank and on hand		$ 131,779.43
Certificate of deposit		100,000.00
Accounts receivable		258,437.49
Due from Harold Faggen *		40,370.00
Office furniture and machines -		29,748.05
Less accumulated depreciation of $62,839.35		
Investments - at cost -		628,255.50
Market value $834,684.87		
Sundry receivables		1,404.60
Prepaid expenses		
		$1,179,995.07

LIABILITIES AND CAPITAL

Liabilities		
Accounts payable		$ 29,859.74
Accrued vacation pay (Accounting)		59,000.00
Fees collected in advance		7,472.00
Taxes payable		41,838.88
Federal income taxes payable		203,480.85
		341,651.47
Capital stock	$ 300.00	
Retained earnings	838,043.60	
		838,343.60
		$1,179,995.07

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* Repaid to Company in October, 1968

PREPARED FROM BOOKS WITHOUT AUDIT

THE COMMENTS IN THE ACCOMPANYING LETTER OF TRANSMITTAL ARE AN INTEGRAL PART HEREOF

Defendant's Exhibit J

W. P. No.

ACCOUNTANT

DATE

JOSEPH WARREN & CO.

ACTUARIAL TABULATING CORP.

BALANCE SHEET

SEPTEMBER 30, 1968

ASSETS

Cash in bank		25,833 58	$ 25,833.58
Accounts receivable		24,5[illegible] 44	13,894.00
Investments in marketable securities - Cost - Market value $309,834.38		211,976.58	211,976.58
Investment in subsidiary. Hagger Enterprises Inc	N/R	43,100	43,100.00
Prepaid Expenses		151.37	
		305,612.03	$294,804.16

LIABILITIES AND CAPITAL

Liabilities			
Accounts payable	184.50		$ 588.60
Taxes payable	7,494.60		7,349.60
Federal income tax payable	27,723.84		22,300.00
Accrued Liab.	570.00		30,238.20
	35,923.44		
Capital stock	300.—	$ 300.00	
Retained earnings	269,388.59	(700.00) 264,265.96	
			264,565.96
	305,612.03		$294,804.16

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PREPARED FROM BOOKS WITHOUT AUDIT

1680

Defendant's Exhibit J

JOSEPH WARREN & CO.

EMPLOYEE FUND SERVICES CORP.

BALANCE SHEET

SEPTEMBER 30, 1968

September 30

ASSETS

Cash in bank	6,444.82	$ 6,444.82
Accounts receivable	15,600 — 640.00	15,600.00
Investments, at cost, Market value $148,343.45	137,523.53	137,523.53
	160,168.97	$159,568.37

LIABILITIES AND CAPITAL

Taxes payable	2,300.—		$ 2,879.14
Federal income taxes payable	13,400 —		15,000.00
	15,700.—		17,879.14
Capital stock	1,000 —	$ 1,000.00	
Retained earnings	143,468.97	140,689.23	141,689.23
	160,168.97		$159,568.37

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PREPARED FROM BOOKS WITHOUT AUDIT

THE COMMENTS IN THE ACCOMPANYING LETTER OF TRANSMITTAL ARE AN INTEGRAL PART HEREOF

Defendant's Exhibit J

JOSEPH WARREN & CO.

FUND S & E CORP.

BALANCE SHEET

SEPTEMBER 30, 1968

ASSETS

Cash in bank	3,113.90	$ 3,113.90
Accounts receivable	4,363.22	4,363.22
Investments, at cost, Market value $6,962.50	6,770.73	6,770.73
	$ 14,313.85	$14,252.85

LIABILITIES AND CAPITAL

Taxes payable	640.-		$ 700.00
Federal income tax payable	2672.18		3,032.18
			3,732.18
Capital stock	1,000.-	$1,000.00	
Retained earnings	10,001.67	9,520.67	
			10,520.67
	$ 14,313.85		$14,252.85

PREPARED FROM BOOKS WITHOUT AUDIT

THE COMMENTS IN THE ACCOMPANYING LETTER OF TRANSMITTAL ARE AN INTEGRAL PART HEREOF

DEFENDANT'S EXHIBIT K

Memo D. G. Hatcher, Jr.

I inquired of Joe Levine; as to whether any records existed which indicated the amount of time and expenses incurred by individual client for any of the companies acquired from Mr. Faggen effective 10-1-68 and he indicated that he had never seen any such records and if they did exist that he would not know where to begin to locate them.

I also inquired as to the existence of general ledgers for Employees Fund Service Corp. and Joe indicated that to the best of his knowledge only worksheets were prepared on this company and that such worksheets (which indicated the transactions of the company for each of its fiscal years) were probably in the files of Joseph Warren and Co.

Since the details of time and expenses incurred either do not exist or unable to be located, it would not be possible to prepare full accrual basis financial statements on the companies acquired from Mr. Harold Faggen for their respective fiscal years ending in 1965, 1966, 1967 and 1968.

Arthur S. Brandenburg
4/27/72

To the best of my knowledge the above is correct.

J. Levine
4/27/72

Defendant's Exhibit K

Mario D. Gatien, Jr.

I inquired of Joe Levine, re to whether any records existed which indicated the amount of time and expenses incurred by individual client for any of the companies acquired from D.H. Taggart effective 12-1-68 and he indicated that he had never seen any such records and it was his opinion that he would not know where to begin to locate them.

I also inquired re to the existence of general ledgers for Employees Fund Service Corp. and Joe indicated that to the best of his knowledge only worksheets were prepared on this company and that such worksheets (which indicated the transactions of the company for the fiscal years) were probably in the files of Joseph Eisenberg and Co.

Since the details of time and expenses incurred either by our client as would be treated, it would not be possible to prepare full accrual basis financial statements for the companies acquired from D.H. Gould-Taggart for their respective fiscal years ending in 1965, 1966, 1967 and 1968.

Arthur L. Brandenburg
4/27/72

To the best of my knowledge the above is correct.

J. Levine
4/27/72

DEFENDANT'S EXHIBIT L

Fagen Companies
Cash Transferred to T.C.I
1968 - 1970

Harold Fagen) Assoc Inc						
1969	Premium and Commission Account on Hartford Life insurance policy funded on behalf of T.C.I.					25,388
1969						
April	Cash					175,000 -
August	Cash					100,000 -
Sept	Cash					60,000 -
1970						
Sept	Cash					30,000 -
Nov	Cash					30,700 -
		Total Harold Fagen Assoc. Inc				411,088
Fund L & E Corp						
1969	Cash					45,000 -
1970	Cash					34,000 -
		Total Fund L & E Corp				79,000 -
Actuarial Tabulating						
1969						
Oct						75,000 -
Sept						38,000 -
1970						34,000 -
		Total Actuarial Tabulating				147,000 -
Employee Fund Services						
1969						
Oct						50,000 -
Sept						25,000 -
1970						1300 -
		Total Employee Fund				74,300 -
		Total all Companies				751,388

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DEFENDANT'S EXHIBIT M

Acquisition: Actuarial Computer Division

In October 1968, the affiliated companies representing the Harold Faggen actuarial organization were purchased for convertible subordinated debentures.

These firms have been engaged in providing actuarial, consulting, and computer services to multi-employer pension funds and welfare funds. This division will seek to expand its actuarial activities into the corporate field, as well as to offer data processing services to existing clients in a wide variety of programs.

In order to expand the computer capabilities of the firm, the existing IBM 360 card and disc system will be supplanted by a larger IBM 360 card, disc and tape system in late Spring 1969. In February 1969, the division employed as Vice President-Data Processing, Mr. Garson Heller, formerly manager of data processing for the chemical division of one of the largest U.S. petroleum firms.

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Defendant's Exhibit M

Roster of Real Properties

	LOCATION	NAME	TYPE OF EQUITY	SIZE
Office Buildings	Akron, Ohio	Ohio Building	Fee ownership	126,000 sq. ft.[1]
	Dallas, Texas	Blue Cross Building	Fee ownership	191,000[1]
	Indianapolis, Ind.	Hume Mansur Building	Leasehold	140,000
	Milwaukee, Wisc.	Bockl Building	Fee ownership	165,000[1]
	Oklahoma City, Okla.	Petroleum and Industry Building	Fee ownership	21,000
	Shreveport, La.	Petroleum Tower	Ownership of bldg. on leased land	146,000
	Tulsa, Okla.	Shell Oil Building	Fee ownership	108,000
Apartment Buildings	Los Angeles, Calif.	Highland Village	Fee ownership	148 apartments
	New York, N.Y.	Park Drive Heights	Fee ownership	746
	Seattle, Wash.	Grosvenor House	Leasehold	300[2]
	Washington, D.C.	Barnaby & High Point	Fee ownership	336
	Washington, D.C. area	Glassmanor	Fee ownership	812
Hotels-Motels	Akron, Ohio	Akron Tower Motor Inn	Fractional interest in fee	196 rooms
	Arlington, Va.	Arva Motor Hotel	Fee ownership	131
	Athens, Ga.	Key to America Inn	Leasehold	87
	Atlanta, Ga.	Air Host Inn	50% interest in leasehold	308
	Atlanta, Ga.	Sky Host Inn	29% interest in fee	100
	Binghamton, N.Y.	Colonial Motor Inn	Fee ownership	142
	Chicago, Ill.	Mid America Inn	Leasehold	100
	Denver, Colo.	Centre Denver Motor Inn	Fee ownership	138
	Indianapolis, Ind.	Marott Hotel	Leasehold	500
	Lansing, Mich.	Riverside Manor Hotel	Fee ownership	145
	Norfolk, Va.	Golden Triangle Motor Hotel	Fee ownership	361[2]
	Orlando, Fla.	Parliament House Motor Inn	Fee ownership	120
	Troy, Ohio	Trojan Motor Inn	Leasehold	80
	Washington, D.C.	Dupont Plaza	Leasehold	320
Leisure-Oriented Real Estate	Shasta County, Calif.	Shasta Acres	Fee ownership	12,000 acres
	Madera County, Calif.	Yosemite Lakes	Fee ownership	6,500 acres
	Palm Beach County, Florida	Mobile Home Park Site	Fee ownership	138 acres
Construction Sites	Bellport, Long Island, N.Y.	Tract for development	50% interest in fee	604 acres
	Medford, Long Island, N.Y.	Tract for development	50% interest in fee	180 acres

[1] plus garage
[2] plus garage and commercial space

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Defendant's Exhibit M

Titan Group, Inc. and Subsidiary Companies

Assets

	1968	1967
Cash	$ 3,383,000	$ 1,515,000
Marketable securities, at cost (market value $1,386,000)	1,244,000	—
Notes and accounts receivable less allowance for doubtful accounts	4,542,000	4,991,000
Mortgages receivable ($3,016,000 collected in January 1969)	5,238,000	2,215,000
Investments in and advances to jointly owned companies (note 2)	2,014,000	948,000
Properties and equipment, at cost (note 3):		
Land held for development and resale	1,868,000	—
Land and improvements	6,928,000	11,130,000
Buildings and improvements	43,856,000	56,839,000
Leaseholds and improvements	3,533,000	3,865,000
Furniture and equipment	4,329,000	3,969,000
	60,514,000	75,803,000
Less: Accumulated depreciation and amortization	18,006,000	19,997,000
Reserve for estimated decline in value	1,990,000	—
	19,996,000	19,997,000
Net properties and equipment	40,518,000	55,806,000
Prepaid expenses, deposits, taxes and other deferred charges and sundry other assets	2,861,000	2,807,000
Excess of cost over equities in companies acquired (note 1)	4,718,000	479,000
	$64,518,000	$68,761,000

See accompanying notes to financial statements.

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Defendant's Exhibit M

Consolidated Balance Sheet

December 31, 1968 with comparative figures at December 31, 1967

Liabilities and Stockholders' Equity

	1968	1967
Notes payable (note 4):		
Banks	$ 2,750,000	$ 3,035,000
Other	2,223,000	1,722,000
	4,973,000	4,757,000
Accounts payable and accrued liabilities	5,785,000	5,898,000
Provision for Federal income taxes (note 5):		
Current	80,000	—
Deferred	920,000	—
Deposits, deferred credits and miscellaneous liabilities	1,266,000	1,748,000
Mortgage notes payable (note 6)	32,841,000	45,191,000
4% subordinated convertible installment notes (note 7)	5,500,000	—
	51,365,000	57,594,000
Stockholders' equity (notes 7, 8):		
Preferred stock, par value $6 per share, authorized 2,000,000 shares, none issued to date	—	—
Common stock, par value $1 per share, authorized 6,500,000 shares, issued 3,751,407 shares (3,689,807 shares in 1967)	3,751,000	3,690,000
Paid-in surplus	13,211,000	12,803,000
Retained earnings (deficit)	(3,586,000)	(4,942,000)
	13,376,000	11,551,000
Deduct cost of 27,250 shares of common stock held in treasury (69,250 shares in 1967)	223,000	384,000
Stockholders' equity	13,153,000	11,167,000
	$64,518,000	$68,761,000

Defendant's Exhibit M

Titan Group, Inc. and Subsidiary Companies

Consolidated Statement of Income (Loss) and Retained Earnings (Deficit)

For The Year Ended December 31, 1968 with comparative figures for 1967	1968	1967
Income:		
Operating income from properties	$19,885,000	$22,343,000
Insurance and actuarial service revenues	2,626,000	1,917,000
Interest and other income	590,000	340,000
	23,101,000	24,600,000
Deduct:		
Operating costs and expenses	13,644,000	13,898,000
Real estate taxes	1,943,000	2,111,000
Interest and related expenses	2,474,000	3,184,000
Leasehold and ground rents	2,054,000	2,126,000
Depreciation and amortization of properties and equipment	3,211,000	4,038,000
Administrative and corporate expenses	511,000	410,000
Federal income taxes (credit) allocated to operations—net	(415,000)	(420,000)
Other expenses	247,000	285,000
	23,669,000	25,632,000
	(568,000)	(1,032,000)
Net gain on disposition of assets less applicable Federal income taxes—1968, $1,325,000; 1967, $420,000 (note 5)	3,377,000	221,000
Income (loss) before extraordinary items	2,809,000	(811,000)
Extraordinary items—add (deduct):		
Provision for decline in value of properties less applicable Federal income taxes of $547,000	(1,443,000)	—
Additional provision for claim costs related to an insurance subsidiary discontinued in 1967 less applicable Federal income taxes of $200,000	(200,000)	—
Benefit from Federal income tax loss carry-forward	190,000	—
	(1,453,000)	—
Net income (loss)	1,356,000	(811,000)
Retained earnings (deficit) at beginning of year	(4,942,000)	(4,131,000)
Retained earnings (deficit) at end of year	$ (3,586,000)	$ (4,942,000)
Earnings per average share of common stock outstanding:		
Income (loss) before extraordinary items	$ .76	$ (.23)
Extraordinary items	(.39)	—
Net income (loss)	$ .37	$ (.23)

See accompanying notes to financial statements.

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Defendant's Exhibit M

Consolidated Statements

Consolidated Statement of Paid-In Surplus

For The Year Ended December 31, 1968 with comparative figures for 1967	1968	1967
Balance at beginning of year	$12,803,000	$12,065,000
Add restoration of reserve for options issued in connection with stockholders' suit	—	778,000
Balance at beginning of year — as restated	12,803,000	12,843,000
Add (deduct):		
Excess of exercise price over par value of 61,800 shares of common stock issued under stock option agreements	383,000	—
Excess of reissue price over cost of 50,000 shares of common stock sold from treasury	25,000	—
Excess of agreed value over par value of 20,000 shares of common stock issued in connection with joint venture agreement	—	100,000
Provision under terms of lawsuit for adjustment of issue price of shares issued in a prior year in connection with acquisition of property	—	(140,000)
Balance at end of year	$13,211,000	$12,803,000

Consolidated Statement of Source and Application of Funds

For The Year Ended December 31, 1968	1968
Source of Funds:	
Net income	$ 1,356,000
Charges to income not requiring current cash outlays:	
Depreciation and amortization of property and equipment	3,211,000
Provision for decline in value of properties	1,990,000
Book value of assets sold net of encumbrances	2,645,000
4% subordinated convertible installment notes	5,500,000
Exercise of stock options and sale of treasury stock	745,000
	$15,447,000
Application of Funds:	
Mortgages receivable acquired upon sale of property	$ 2,979,000
Acquisition of corporations and minority interest	5,872,000
Property and equipment additions and replacements net of mortgages at acquisition dates	2,894,000
Advances to jointly owned companies — net	1,318,000
Payments in reduction of mortgages	1,764,000
Other items — net	620,000
	$15,447,000

See accompanying notes to financial statements.

Defendant's Exhibit M

Notes to Consolidated Financial Statements

1. Basis of Consolidation:
The consolidated financial statements include the accounts of Titan Group, Inc. and its subsidiaries, all of which are wholly owned. A minority interest held prior to January 1, 1968 was acquired by the Company as of that date.

As of October 1, 1968, the Company acquired all the outstanding capital stock of the four companies comprising the "Faggen Group" for 4% subordinated convertible installment notes in the aggregate amount of $5,500,000 (see note 7 for description). The transaction has been accounted for as a purchase.

Excess of cost over equities in companies acquired as shown on the balance sheet includes the acquisitions referred to above. The excess is not being amortized since in the opinion of management the value of the investments supports the carrying costs thereof.

All significant inter-company items have been eliminated in consolidation.

2. Investments in and Advances to Jointly Owned Companies:
The Company's investments in six jointly owned companies are stated at cost less cash distributions received. The investment in one company has been fully recovered and income is credited as further cash distributions are received. As of December 31, 1968, book equity was approximately $88,000 less than the net investment. The Company's proportionate share of net income for the year ended December 31, 1968 aggregated $92,000 after depreciation and amortization charges of $138,000.

Under agreement of December 13, 1968 the Company loaned to a jointly owned company $1,000,000 in 1968 and $500,000 in January 1969. The loans bear interest at 8%, mature on December 31, 1971 and are secured by a security interest in shares held by co-venturers.

In the opinion of management, no losses will be sustained on these investments.

3. Properties and Equipment:
Substantially all land and buildings are pledged to secure mortgage indebtedness.

Properties and equipment are being depreciated over their useful lives or amortized over their lease terms where less than useful lives. Useful lives are generally as follows: land improvements, 10 to 15 years; buildings and improvements, 10 to 40 years; furniture and equipment, 5 to 10 years. Leaseholds and leasehold improvements are being depreciated or amortized over periods of 10 to 30 years. Depreciation is computed principally on the straight line basis.

No value has been included in the Company's statement for three operating leases held on properties previously owned in fee. Based on independent appraisals and projected cash flow earnings, management has estimated the value of the leaseholds to be in excess of $2,500,000 as of December 31, 1968.

A reserve of $1,990,000 (before Federal income taxes of $547,000) was established as of December 31, 1968 to reflect management's estimate of the decline in value of five properties. The sale of three of these properties is presently under contract or being negotiated. Future depreciation charges will be computed on the basis of the revised carrying values of the properties.

4. Notes Payable

	Total	Current	Long-Term
Banks:			
Secured	$1,033,000	$ 383,000	$ 650,000
Unsecured	1,717,000	1,600,000*	117,000
	$2,750,000	$1,983,000	$ 767,000
Other:			
Secured	$1,262,000	$ 857,000	$ 405,000
Unsecured	961,000	477,000	484,000
	$2,223,000	$1,334,000	$ 889,000

The over-all effective interest rate on notes payable, exclusive of non-interest bearing notes aggregating $115,000, is 6.35%.

A note payable of $950,000 is secured by real estate mortgages receivable carried on the books of the Company at December 31, 1968 in the amount of $1,493,000. Other notes payable are secured principally by chattel mortgages on personal property, prepaid insurance premiums and cash surrender value of life insurance. Notes aggregating $823,000 at December 31, 1968 have been issued in connection with acquisitions of companies.

5. Federal Income Taxes:
The Company intends to elect for Federal income tax purposes the installment method of accounting for reporting a substantial portion of the 1968 net gain from the disposition of assets. For the purpose of financial reporting, the full amount of the gains has been reported in 1968. Provision for Federal income taxes of $650,000 applicable to the gain to be reported in the 1968 tax return is offset in its entirety in the 1968 financial statements by current year operating losses and carry-forward of losses from prior years. Although carry-forward losses of appoximately $1,400,000 remain after deduction for 1968 taxable income, provision has been made in the 1968 financial statements for taxes of $675,000 applicable to the gain to be reported in post-1968 tax returns since under certain circumstances the benefits of using alternative tax computations may be greater than the benefits available from applying carry-forward losses. Consolidated tax returns filed by the Company and its subsidiaries have been examined by the Internal Revenue Service through December 31, 1962.

Corporations comprising the "Faggen Group" have filed separate Federal income tax returns through December 31, 1968. Appropriate provision has been made for their estimated tax liability. The separate tax return of the principal company has been examined by the Internal Revenue Service for all years through June 30, 1967. The separate tax returns of the remaining corporations are subject to review for various periods.

6. Mortgage Notes Payable:
As of December 31, 1968 mortgage notes payable provide for installment and maturity payments as follows:

	Installments	Balances due at Maturity	Total
1969	$ 1,923,000	$ 375,000	$ 2,298,000
1970	2,001,000	—	2,001,000
1971	2,108,000	—	2,108,000
1972	2,184,000	—	2,184,000
1973	1,738,000	—	1,738,000
	$ 9,954,000	$ 375,000	10,329,000
1974-1995			22,512,000
Balance December 31, 1968			$32,841,000

Interest rates range from 3½% to 8% with an over-all effective rate of 5.5%.

The mortgages are secured solely by the mortgaged properties or are obligations of subsidiaries except for mortgages aggregating $5,660,000 for which Titan Group, Inc. is liable as maker.

*Includes $1,500,000 of general purpose loans, all of which were paid in January, 1969.

Defendant's Exhibit M

7. 4% Subordinated Convertible Installment Notes:

Installment notes in the aggregate amount of $5,500,000 are convertible at any time after December 31, 1968 at the election of the holder into 50,000 shares of common stock with respect to $750,000 face value of notes and 237,500 shares of common stock with respect to the remaining $4,750,000 face value of notes. In the event the holder of the notes does not elect to exercise the conversion privilege, the notes are payable in annual installments of $1,100,000 commencing November 1, 1974 and continuing each November 1 through 1978. Principal may be prepaid on or after November 1, 1971 at declining prepayment prices not exceeding 105% of the remaining principal. The notes are subordinated to all senior debt, as defined, whether outstanding at the date of the indenture or thereafter incurred or created.

Had the debentures been fully converted into common stock in 1968 the effect on net income would not have been material. The Company has reserved 287,500 shares of its common stock for the conversion privilege.

8. Common Stock Options and Purchase Rights:

a) Granted under Employee Stock Option Plan

On May 18, 1966, the shareholders approved an employees' stock option plan which permits the granting of options to officers and key employees to purchase up to an aggregate of 250,000 shares of common stock. The option price shall not be less than the fair market value at the time the option is granted or the par value of the stock. The terms of each option shall be not more than five years from the date of granting thereof and, unless otherwise provided in the option agreement, may be exercised at any time or from time to time, as to any part or all the shares under option, but in no case prior to the expiration of the first six months of its term.

Transactions under the qualified plan during 1968 are summarized as follows:

	No of Shares	Option Price Per Share	Option Price Aggregate	Fair Market Value at Date of Grant Per Share	Fair Market Value at Date of Grant Aggregate
Options outstanding January 1, 1968	39,000	$6.00	$ 234,000	$4.00-5.00	$ 190,000
Add (deduct) 1968 transactions:					
Granted	158,500	6.50-17.75	2,092,750	6.25-17.75	2,084,500
Exercised	(11,600)	6.00	(69,600)	4.00- 5.00	(57,000)
Cancelled	(4,500)	6.00	(27,000)	5.00	(22,500)
Options outstanding December 31, 1968:					
Total	181,400		$2,230,150		$2,195,000
By year of grant:					
1966	18,900	$6.00	$ 113,400	$5.00	$ 94,500
1967	4,000	6.00	24,000	4.00	16,000
1968	158,500	6.50-17.75	2,092,750	6.25-17.75	2,084,500
Total	181,400		$2,230,150		$2,195,000
Options exercisable:					
January 1, 1968	6,900	$6.00	$ 40,800	$5.00	$ 34,000
December 31, 1968	3,000	$6.00	$ 18,000	$5.00	$ 15,000

The market value on the dates of exercise of the 11,600 shares purchased in 1968 through the exercise of options aggregated $206,575. Prior to January 1, 1968, no options had been exercised.

Subsequent to December 31, 1968, options to purchase 10,000 shares at an aggregate price of $170,500 ($16.375 to $17.50 per share) were granted to five employees.

b) Other Grants and Purchase Rights

In September, 1968 two officers exercised options granted under 1962 employment contracts to purchase an aggregate of 50,000 shares of common stock at a price of $7.50 per share. The market value on the dates of exercise of the options was $15.25 per share or an aggregate of $762,500. Prior to January 1, 1968, no options had been exercised.

The Board of Directors has granted to an officer the right to purchase 10,000 shares of common stock at market value; however, the terms of the grant have not been confirmed.

9. Pensions:

The Board of Directors of Titan Group, Inc. approved a pension plan in 1964 covering all personnel meeting service and age requirements. The plan is insured in part and is funded in part by annual contributions made to an independent trustee on the basis of actuarial determinations. In 1968 approximately $50,000 was charged against earnings, substantially all of which represented future service benefits. The past service portion of the cost is not significant.

Defendant's Exhibit M

Notes continued

An employment agreement with Mr. Benjamin M. Robinson, Chairman of the Board, provides for payment of $25,000 per annum commencing with the termination of his employment, such amount to be payable to him, his designees or estate for a period equal to the number of months of his employment from November, 1961.

Corporations comprising the "Faggen Group," which were acquired by the Company as of October 1, 1968, have non-contributory pension plans in effect covering substantially all their employees. The plans have been funded by contributions made to Trustees on the basis of actuarial determinations. As of December 31, 1968, all vested benefits are fully funded.

10. Lease Obligations:

The Company and its subsidiaries are obligated under long-term leases which currently provide for basic annual rentals aggregating $1,551,748, of which $1,427,010 is payable by subsidiary companies. Titan Group, Inc. has guaranteed for the three year period ending December 31, 1971 rental payments of $40,000 per annum payable by a subsidiary. Maximum annual basic rentals and expirations under the leases are summarized below with the number of applicable leases indicated parenthetically.

Expiration Dates	Company	Subsidiaries
1969	$ —	$ 8,395(2)
1971	—	12,000(1)
1972	—	26,224(1)
1974	58,638(1)	35,016(1)
1978	—	370,250(2)
1981	48,000(1)	—
1982	—	86,500(1)
1986	30,000(1)	—
1994	—	100,000(1)
1996	—	944,935(3)
Subsequent to 2000	8,100(2)	—
	$144,738(5)	$1,585,320(12)

Certain leases require payment of real estate taxes and other charges and additional rentals based on sales.

11. Litigation and Contingent Liabilities:

a) The Company is engaged in various litigation of a nature incidental to its business. It is not anticipated that the Company will be liable for any material amounts.

b) The Company has guaranteed to the extent of $1,500,000 the payment by an insurance subsidiary of all sums to become due to two insurance companies under agency agreements including, if any, losses from claims in excess of reserves established from operations. Operations of the subsidiary were discontinued in 1967. Reserve balances at December 31, 1968 were adequate in the opinion of management.

c) The Company is liable under a mortgage on property sold under a lease back agreement in 1966 to the extent the mortgage exceeds $2,750,000. As of December 31, 1968 the mortgage balance was $3,250,000.

12. Subsequent Events:

a) Pursuant to contract of December 3, 1968, the Company acquired certain land in January 1969 for $330,000.

b) On March 17, 1969, the Company acquired two properties at a cost of $450,000 above existing mortgages of $2,000,000.

Accountants' Report

The Board of Directors and Shareholders
Titan Group, Inc.:

We have examined the consolidated balance sheet of Titan Group, Inc. and subsidiary companies as of December 31, 1968 and the related consolidated statements of income (loss) and retained earnings (deficit), paid-in surplus and the consolidated statement of source and application of funds for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying consolidated balance sheet and consolidated statements of income (loss) and retained earnings (deficit) and paid-in surplus present fairly the financial position of Titan Group, Inc. and subsidiary companies at December 31, 1968 and the results of their operations for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Also, in our opinion, the consolidated statement of source and application of funds presents fairly the information shown therein.

PEAT, MARWICK, MITCHELL & CO.

New York, New York
March 21, 1969

DEFENDANT'S EXHIBIT O

HAROLD FAGGEN ASSOCIATES, INC.

853 BROADWAY
NEW YORK, N. Y. 10003
477-8106

January 18, 1972

Touche Ross & Company
1633 Broadway
New York, New York

Re: Harold Faggen Associates
Employees Retirement Plan

Gentlemen:

Reference is made to your request for information dated January 14, 1972. Since the valuation of the Pension Plan is made each year as of the anniversary date on the basis of salary rates as of the first day of the calendar year, the current valuation cannot be completed until after negotiations with the Office Employees Union are concluded. All information is, therefore, based on the valuation which was made as of January 1, 1971, unless otherwise noted. Your questions and our replies follow:

1. Description of Employee Groups Covered - all employees, with the exception of the Pharmacists, are covered on the January 1st following completion of at least six months of continuous service.

2. Date as of which computations were made - January 1, 1971.

3. Number of employees in computations - 41 as of January 1, 1971; 60 as of January 1, 1972.

4. (a) Actuarially computed value of accrued benefits - $201,000.

   (b) Actuarially computed value of total benefits - $797,293.

5. Pension Fund Net Assets are carried at book value which amounted to $532,727 on December 31, 1970. The market value on that date was $526,549.

6. Current service cost for 1971 was $18,785.00. There is no unfunded liability for past service. Under the entry age frozen initial liability method of funding, realized gains or losses are spread over the future work life of the employees. The amount to be funded currently has not yet been determined.

Defendant's Exhibit O

HAROLD FAGGEN ASSOCIATES, INC.

7. Changes in actuarial assumptions - none.

8. Changes in plan provisions - none.

9. Changes in funding policies - the valuation as of January 1, 1971 was calculated by the entry age normal method. Prior valuations were calculated on unit credit method.

A copy of the valuation report as of January 1, 1972 will be furnished, when available.

Yours very truly,

Basil Castronvinci
Vice President - Actuary

BC:jr

OPEIU 153, AFL-CIO

1696

DEFENDANT'S EXHIBIT P

RE RET. PLAN

HAROLD FAGGEN ASSOCIATES, INC.

853 BROADWAY
NEW YORK, N. Y. 10003
477-3106

November 30, 1972

Mr. Stanley L. Adelstein
Burke, Haber & Berick
15th Floor
Central National Bank Building
Cleveland, Ohio 44114

Dear Stan:

I have enclosed the following items:

Form 4576
Form 4573
Exhibit A (to be attached to amendments).

In completing Form 4576, Ted Ferrara and I are both questioning why this form is needed at all. In the past, where we have filed with IRS, we have only had to indicate that there was a successor funding agency and that all participants' accrued balances were fully vested. The Manhattan District Office would accept this and not consider the Plan a termination. Be that as it may, we have completed the form for your use.

Exhibit A contains all the persons who were participants on November 1, 1972, including the two participants who have terminated and had fulfilled the vesting requirements. One of these employees is Sol Tabor. For your information, I have been led to believe that this employee was involved in litigation with Titan Group, Inc., and a decision was made, by Counsel for Titan, not to pay any pension to him. It would appear that if we were to include him on Exhibit A, then we are consenting to pay him. I have asked Suzanne Geiss of Titan Group, Inc. to determine what the settlement agreement between Titan and Sol Tabor was, and whether or not he had waived any right to his pension.

I have listed below all the answers to the remaining questions you have had:

1. The effective date that Titan Group, Inc. acquired all of the stock of Harold Faggen Associates, Inc. was December 2, 1968.

2. Harold Faggen is still serving as Trustee of the Trust Fund.

Defendant's Exhibit P

HAROLD FAGGEN ASSOCIATES, INC.

Mr. Stanley L. Adelstein
Burke, Haber & Berick

November 30, 1972

3. There is no unfunded liability in the Fund, neither for the union nor the non-union participants.

There is another division of Titan Group, Inc., called Actuarial Tabulating, which has a Pension Plan with two participants - Harold Faggen and Rose Dogan. In 1968, after the sale to Titan, contributions ceased to this Plan. We have no other details as to the nature of this Plan, and only offer this information at this time for your consideration in filing with IRS.

If you should need anything further, please do not hesitate to call me.

Sincerely,

Basil Castrovinci
President

BC:jr
enc.
cc: Mr. Robert James Frankel
Ms. Suzanne Geiss

OPEIU 153, AFL-CIO

1698

Defendant's Exhibit P

HAROLD FAGGEN ASSOCIATES, INC.

EXHIBIT A

Accrued Values as of November 1, 1972
in
Harold Faggen Associates, Inc. Retirement Plan
for
Non-union Participants

Name	Value
Irwin Berger	$ 989
Basil Castrovinci	2,632
Oliva Cole	424
Ray Dodd	836
Rose Dogan	32,354
Harold Faggen	98,265
Theresa F[illegible]kas	9,065
Theodore Ferrara	18,524
Myrna Fiore	960
Joan Kennedy	344
Jane Kiernan	184
David Kulberg	241
Howard Kutner	191
Joseph Levine	2,857
Marilyn Lieberman	859
Jonathan Miller	239
Arnold Perlmutter	5,442
Burt Rand	1,518
Roger Reyes	643
Jeannette Sautter	7,941
Leroy Singletary	467
George Sinks	1,228
George Stewart	30,277
John Trillas	427
Bert White	88
Ransom Widmer	382
Rupert Williams	360
	$217,737

* Sol Tabor 9,706

OPEIU 153, AFL-CIO

1699

DEFENDANT'S EXHIBIT R

TITAN GROUP, INC.

ROBERT JAMES FRANKEL
CHAIRMAN OF THE BOARD
CHIEF EXECUTIVE OFFICER

October 5, 1971

Irell & Manella
Gateway East Building
Suite 900
Century City, Los Angeles,
California 90067

Attention: Mr. Ed Kaufman

Re: Harold Faggen
Our file RJF #185-55 b

Dear Ed:

Thank you for meeting with me on Wednesday, September 29, 1971, and for your kindness in discussing the Harold Faggen situation.

One item is of particular concern and might bear your consideration prior to our meeting in New York on Monday, Octobar 18th. It would be desirable for us to have detailed inquiry as to the basis for the evaluation of Faggen's corporations resulting in the payment to him of $5,500,000 of convertible 4% debentures.

We shall be advised as to who made that determination and whether or not there was some sound basis for the fixing of the purchase price, such as the value of the assets owned by Faggen's corporations, the amount of liabilities offset, the then-current earnings, the projected potential earnings, the then-investment view of interest in data processing and similar companies (earnings multiple), as well as the then-present value of 4% restricted marketable debentures payable in annual installments, commencing in June 1974 of $1,100,000 each.

Your review of the above and any documentary information which would support the evaluation would be appreciated.

Sincerely,

TITAN GROUP, INC.

By: Robert James Frankel

Chairman of the Board and
Chief Executive Officer

RFJ:elb

cc: Al Kendis
Sid Silverman

1700

DEFENDANT'S EXHIBIT S

Received
10/12/71

NOTICE AND CALL FOR SPECIAL MEETING OF THE BOARD OF DIRECTORS OF TITAN GROUP, INC.

222 Executive Park
Louisville, Kentucky 40207
October 5, 1971

TO: Mr. Harold Faggen
HAROLD FAGGEN ASSOCIATES, INC.
853 Broadway
New York, New York 10003

PLEASE TAKE NOTICE, pursuant to call of the Chairman of the Board, that a special meeting of the Board of Directors of TITAN GROUP, INC. will be held on Tuesday, October 19, 1971, at 11:00 AM, E.D.S.T., at the office of Sovereign Construction Company, Ltd., 1325 Inwood Terrace, Fort Lee, New Jersey, for the purpose of transacting business that may properly come before such meeting.

No further notice of this meeting will be given.

TITAN GROUP, INC.

George F. Duthie
President

1701

Defendant's Exhibit S

PHILMORE J. HABER
OF COUNSEL

THOMAS A. BURKE
MORRIS BERICK 1920-1969
RALPH VINCE
ALVIN M. KENDIS
DAVID A. KAUFMAN
STANLEY I. ADELSTEIN
JOSEPH F. LOMBARDO
JACOB I. ROSENBAUM
JULES L. MARKOWITZ
JOSEPH G. BERICK
THOMAS P. MEANEY, JR.
NELSON E. WEISS
MARVIN S. ZELMAN

LAW OFFICES OF

Burke, Haber & Berick

FIFTEENTH FLOOR

CENTRAL NATIONAL BANK BUILDING

CLEVELAND, OHIO 44114

(216) 771-2700

JAMES H. BERICK
LARRY L. WYMER
DONALD W. FARLEY
ROBERT P. DUVIN
BRUCE J. DETTIGOLE
PHILIP L. CURD
ROBERT D. STONEY
SAMUEL S. PEARLMAN
CARL F. GILLOMBARDO, JR.
ANTHONY J. HARTMAN
DONALD A. INSUL
LAWRENCE I. KIPPERMAN
RICHARD A. COLLIER
ANTHONY J. DIVENERE
JOHN J. PALLAN

November 4th, 1971

TO THE DIRECTORS OF
TITAN GROUP, INC.

Enclosed herewith you will find a copy of the Minutes of a Special Meeting of the Board of Directors which took place October 19th, 1971 in Fort Lee, New Jersey.

The enclosure referred to above is being mailed to you in Mr. Kendis' absence. He is presently out of the country and not expected to return until the end of the month. If you should have any questions or comments, I am certain he will give them his prompt attention upon his return.

Very truly yours,

AMKendis/pjt

Secretary to Alvin M. Kendis

Defendant's Exhibit S

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF TITAN GROUP, INC., held on October 19, 1971 at the offices of SOVEREIGN CONSTRUCTION CO., LTD. 1325 Inwood Terrace, Fort Lee, N.J. at 11:15 a.m.

Robert James Frankel, Chairman of the Board of Directors, chaired the meeting and requested Alvin M. Kendis to act as Secretary of the meeting and to record the minutes thereof. A quorum of the Directors was present, namely:

Robert James Frankel
George F. Duthie
Ronald Rosenfeld
Herzl Mendelsohn
Benjamin M. Robinson
Aron Drost
Jack Farley
Alvin M. Kendis

Harold Faggen was absent from the meeting.

Also present by invitation were Daniel G. Hatcher, Financial Vice-President and Treasurer of the Company and Ollie Windhorst, Sr.

The Chairman requested the Secretary of the meeting to cause a copy of the Notice of Meeting and the Affidavit of Mailing thereof to be annexed to and made a part of these minutes.

The Board waived reading of the minutes of the Special Meeting of Directors held September 14th, 1971. Mr. Robinson requested a modification of certain language in the minutes as circulated and a written request from Mr. Faggen relative to a change in reference to his participation in a portion of the meeting was considered. Mr. Kendis, as acting Secretary of the Meeting of September 14th, 1971, acquiesed in the requested changes and upon inquiry, no Board member objected to such changes. Accordingly, the Secretary of the meeting was instructed to make the changes and to circulate corrected copies of the minutes.

On motion made, seconded and vote being taken, Mr. John O. MacAycal was elected an Assistant Secretary of the Company to serve in such office until the first meeting of the Board of Directors following the next annual meeting of shareholders and until his successor is duly elected and qualified,

Defendant's Exhibit S

and Ronald Rosenfeld was designated Executive Vice-President of the Company in lieu of his former title of Vice-President.

The Chairman reported that Mr. Hatcher had furnished the historical information requested at the last meeting of the Board of Directors relating to salaries and compensation previously paid the principal officers of the Company. A discussion followed relative to the fixing of compensation for the existing principal officers. Thereupon, on motion duly made, seconded and vote being taken, the schedule of annual salaries set forth below, was confirmed as being consistent with prior salaries paid for such positions:

(a)	Chairman of the Board of Directors	$50,000.00
(b)	Chief Executive Officer	$100,000.00
(c)	President	$65,000.00
(d)	Executive Vice-President	$50,000.00

It was further understood and agreed:

1. That if a person holds more than one office, he shall receive, as salary, that amount which was the higher of the salaries applicable to the offices held by him and shall not receive the aggregate of such salaries (for example, if the Chairman of the Board of Directors serves also as the Chief Executive Officer of the corporation, his annual salary under the schedule would be $100,000.00).

2. That to the extent an officer shall be receiving salary from a subsidiary corporation, the amount so paid to such officer by the subsidiary shall be deemed a credit against the salary payable as an officer of Titan (for example, if the Chief Executive Officer of Titan shall also be serving as President of a subsidiary, and receiving in that latter capacity an annual salary of $70,000.00, his additional salary from Titan would be $30,000.00, for an aggregate of $100,000.00).

3. That if an officer of Titan shall be receiving salary from a subsidiary corporation in excess of that prescribed for the office which he holds in Titan, he shall receive only the salary from the subsidiary and such salary shall not be limited to the salary prescribed in the foregoing schedule as an officer of Titan.

4. That compensation payable by Titan to the present

Defendant's Exhibit S

principal officers of the Company from February 1, 1971, pursuant to the foregoing schedule, shall be accrued (subject to any possible application of the existing Presidential "Price Freeze"O for payment at such time as the cash position of the Company will, in the opinion of the Executive Committee, permit.

The Board then reviewed and ratified the following actions of the Executive Committee:

(a) Settlement of the Boneparth lawsuit for the sum of $16,250.00, and approval of fees of Counsel, Barr, Bennett & Fullen.

(b) Sale of the leasehold interest in the Howard Johnson Motel.

(c) Abandonment of Trojan and Mid-America Motels.

(d) Lease of the Riverside Motel.

(e) Sale of the Golden Triangle Hotel.

(f) Sale of the Paldor Property.

(g) Sale of the shares of United Airport Properties, Inc.

The Chairman reported in depth with respect to the Yosemite property including, among other things, the cash flow requirements to complete Section 1; negotiations for possible postponement of the deadline forcompletion of such Section; procedures which had been recommended for the handling of delinquent purchase money notes and trust indentures; alternative proposals for Section 2 and 3 under the County of Madera agreement; negotiations for sale or joint venture of the entire project; a sales program undertaken for individual properties within the project; and a meeting held by Mr. Marmorstein with lot owners on October 16th, 1971 relative to threatened action by the lot owners.

The Chairman described his negotiations with Mr. Kaufman of the firm of Irell & Manella, resulting in an agreed settlement of all claims by that firm for unpaid attorneys fees and advances and calling for the exchange of mutual releases upon the issuance by the Company of 10,000 shares of its capital stock to Irell & Manella and the payment of out-of-pocket advances of approximately $3,000.00. The Board ratified the settlement described by the Chairman and commended him for his efforts and

Defendant's Exhibit S

the results achieved.

The Chairman brought the Board up to date on meetings with Mr. Faggen and others relative to the possible restructuring of Mr. Faggen's position as a creditor of the Company. Mr. Rosenfeld reported that no progress had been made in achieving a basis for any understanding. In the discussion particular note was made of the fact that Mr. Faggen's employment agreement terminates December 1, 1971 and that there was no present indication as to whether that employment would be renewed. Consideration was given to the possible effect upon the operations of the Faggen companies of the termination of Mr. Faggen's employment, as well as the effect which such termination might have upon Mrs. Faggen's employment with the Company. The possibility of a sale of the actuarial business was also discussed.

Mr. Leonard Friedman of Alliance Brokerage Corporation joined the meeting. He confirmed his acceptance of settlement of the dispute over executive bonuses as described in the Minutes of the Meeting of this Board held September 14, 1971. Several members of the Board discussed with Mr. Friedman the association of Herbert N. Zack with Alliance Brokerage and the finalization of the terms of such association was left for recommend tion by Mr. Mendelsohn in consultation with Mr. Friedman.

Mr. Friedman left the meeting and the Board recessed for lunch at 1:45 p.m. and reconvened at 2:15 p.m.

The Chairman requested that Mr. Robinson give some background to the Board with respect to the salary which he received as Chairman of the Board of Directors of the Company, as well as legal fees paid during that period, and the pension arrangement which had been made with him. Mr. Robinson described the circumstances under which he had been elected as Chairman and the services which he had rendered the corporation in the capacity of Chairman of the Board. In response to inquiries from the Chairman, Mr. Robinson stated that his firm would receive the proceeds of the deferred compensation and that it might consider acceptance of shares of the capital stock of the Company in satisfaction thereof.

Mr. Hatcher reported on the status of the loan from Chase Manhattan Bank. Particular note was made of certain conditions relating to the principal officers of the Company, namely, restrictions on the sale of their shares and an undertaking to remain as such officers of the Company during the period of the loan. In the course of discussion it was pointed out that conditions had substantially changed since the application for the loan, in that bank indebtedness had been materially reduced as a result of the closing of sales of

Defendant's Exhibit S

properties of the Company. It was suggested that the possibility of reducing the amount of the loan should be explored with a view to eliminating the conditions and requirements described. It was also suggested that the bank should be informed of anticipated additional closings in the near future which would further serve to reduce the loan balance. Mr. Hatcher stated that in considering the cash flow requirements of the Company, it should be kept in mind that general office would require approximately $900,000.00 to discharge obligations for taxes, interest and general operating expenses and expenditures between the date of this meeting and the end of the year.

The Chairman commented on the problems of bondability, his continuing efforts to investigate a merger potential for the Company, and his meetings with, and proposals from, various national accounting firms with respect to the 1971 year-end audit and S.E.C. requirements. The Chairman recommended that Touche Ross be given favorable consideration. Copies of the proposals from the various accounting firms were available for examination.

The continuing efforts to create a uniform system of reporting and accounting by the agencies constituting the insurance division were described and reviewed.

The following reports were then received:

1. Mr. Rosenfeld reported on the status of sales of properties, the properties remaining, what is being done to dispose of them, and anticipated closings.

2. Mr. Kendis reported that a complaint against Titan Group, Inc., filed by Northgate Sheboygan Center Corp., a purchaser of a property from this Company, had been disposed of by a judgment favorable to Titan. Counsel for Titan has recommended that we now dismiss a counterclaim which had been filed on behalf of Titan as he believed that there was no reasonable expectation of winning a judgment against a collectible defendant. On the basis of the recommendation of Counsel handling the case, it was agreed that Counsel could be instructed to dismiss the counterclaim.

3. Mr. Drost reported on a proposed joint venture by Multiplex, Inc. in a multiple family housing project and related developments in Israel. The Chairman stated it was Multiplex's responsibility

to satisfy itself as to the potential of the project and the reliability of the companies and individuals with which it would be associated and it was not the function of the parent company to control the exercise of judgment by management of a subsidiary within the scope of its business operations, provided there was no conflict with overall policy established by the parent company. Nevertheless, the Chairman expressed strong reservations as to the advisability of entering into a transaction out of the country under present conditions.

4. Mr. Farley reported on the operations of Jack L. Farley Construction Company. He briefly described a proposed condominium development to consist primarily of four-unit buildings on property owned by Mr. Farley and others. He said that the property was available for acquisition by the Company; that he recommended such acquisition, but due to his personal interest in the property he felt that it should be considered by this Board. Mr. Farley was requested to obtain information for submission to the Executive Committee, including a statement of his participation in the property, the cost of his interest the proposed sale price to the Company, the names and relationship, if any, of other owners of the property, and an appraisal from an independent competent appraiser of the fair market value of the property.

5. The Chairman reported that statements from Burke, Haber & Berick for legal services rendered in certain real estate transactions not covered by the retainer to that firm, had been approved by the Executive Committee and requested and received ratification thereof by the Board.

6. The Chairman reported on his efforts to dispose of the claim of Alfred Frager for services as Chairman of the Board of Titan Group, Inc. for a short period in 1971, and suggested that the claim might be resolved by payment in shares of the Company.

The Chairman proposed that thought should be given to the desirability of a reverse stock split, which would have the effect of decreasing the number of shares outstanding and the consequent "float" in the market, as well as increasing the market price at which the resulting shares would trade. Various members of the Board commented and it was the consensus that further information should be obtained and consideration given to the possibility of such a reverse stock split.

Defendant's Exhibit S

Mr. Windhorst described circumstances under which it had become necessary for him to attempt to dispose of shares of the company owned by him to realize a net of approximately $50,000.00. He wanted the Board to know of the unexpected change in his circumstances, and that he proposed to take the necessary steps to obtain a "no-action" letter from the Securities and Exchange Commission in view of the fact that he had signed an investment letter at the time he received the shares in 1970. The Board indicated that it would not oppose such disposition of shares by Mr. Windhorst, provided that such "no-action" letter was obtained.

There being no further business to come before the meeting, the Chairman declared the meeting duly adjourned at 4:20 p.m.

Alvin M. Kendis, Secretary of the Meeting

ATTEST:

Robert James Frankel, Chairman

Defendant's Exhibit S

all meet 10/19

Fisher - Phil tells me - the Beta Sea Div. is
making all the money.
H. F. - "I don't believe you"

1710

DEFENDANT'S EXHIBIT T

LAW OFFICES OF
Burke, Haber & Berick
FIFTEENTH FLOOR
CENTRAL NATIONAL BANK BUILDING
CLEVELAND, OHIO 44114
(216) 771-2700
CABLE: BURKELAW

May 12, 1972

THOMAS A. BURKE (1910-1971)
MORRIS BERICK (1910-1970)
RALPH VINCE
ALVIN M. KENDIS
DAVID A. KAUFMAN
STANLEY I. ADELSTEIN
JOSEPH F. LOMBARDO
JACOB I. ROSENBAUM
JULES L. MANKOWITZ
JOSEPH G. BERICK
THOMAS P. MEANEY, JR.
NELSON E. WEISS
MARVIN S. ZELMAN
JAMES H. BERICK
LARRY L. WYMER
DONALD W. FARLEY
ROBERT P. DUVIN
BRUCE J. BETTIGOLE
PHILIP L. CURD
ROBERT D. STOREY
SAMUEL S. PEARLMAN
CARL F. GILLOMBARDO, JR.
RICHARD W. HAMMOND
JON C. FLINKER (NOT A MEMBER OF OHIO BAR)
ANTHONY J. HARTMAN
DONALD A. INSUL
RICHARD A. COLLIER
ANTHONY J. DI VENERE
JOHN J. PALLAN
ROGER D. HECHT

OF COUNSEL
PHILMORE J. HABER
MYRON H. KROTINGER

To All Directors of
Titan Group, Inc.:

Enclosed herewith is your copy of the minutes of the Special Meeting of the Board of Directors of Titan Group, Inc. held April 6, 1972.

Sincerely,

Alvin M. Kendis

AMK:ds

Enclosure

Defendant's Exhibit T

MINUTES OF A SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
TITAN GROUP, INC.
HELD ON APRIL 6, 1972, at the
Offices of Sovereign Construction Co.,
Ltd., 1325 Inwood Terrace, Fort Lee,
New Jersey, at 10:00 A. M.

Robert James Frankel, Chairman of the Board of Directors, chaired the meeting and requested Alvin M. Kendis to act as Secretary of the meeting and to record the minutes thereof. A quorum of the Directors was present, namely:

Robert James Frankel
George F. Duthie
Ronald Rosenfeld
Herzl Mendelsohn
Benjamin M. Robinson
Aron Drost
Jack Farley
Alvin M. Kendis

Harold Faggen, a Director, was absent from the meeting.

Also present by invitation were the following:

Daniel G. Hatcher	Financial Vice-President and Treasurer - Titan Group, Inc.
Leonard M. Harlan	Harlan, Betke & Myers, Inc.

The Chairman requested the Secretary of the meeting to cause a copy of the Notice of Meeting and the Affidavit of Mailing thereof to be annexed to and made a part of these minutes.

The Board waived reading of the minutes of the last Special Meeting of the Board of Directors held December 9, 1971.

The Chairman described the opportunities available to sponsor-developers of urban renewal projects. He stated that Sovereign Construction Co. Ltd. had taken these sponsor-developer positions in several transactions and recommended that Titan Group, Inc. become sponsor-developer in selected situations for the dual purpose of operations in the parent corporation and the implementation of a public image of Titan as a developer. The Directors approved in principle Titan becoming a sponsor-developer in selected situations.

The Chairman then recommended to the Board that Titan become sponsor-developer of the so-called Melrose Sites A and B, a project wherein Sovereign would be general contractor for 221

Defendant's Exhibit T

units of turnkey construction for the New York City Housing Authority. The cost of this project was estimated to be approximately $8,500,000. The Directors discussed the question of liability of a general partner in limited partnerships, mortgage liability and project operation, which would be involved in the sponsor-developer position. It was concluded that the anticipated rewards far outweighed the risks and the Board approved Titan taking the sponsor-developer position with respect to the aforementioned Melrose Sites A and B with Sovereign as general contractor.

The Chairman reviewed with the Board a proposed agreement with the firm of Harlan, Betke, & Myers, Inc. to act as corporate consultants to Titan. He described the services to be performed and the compensation to be paid, including provision for a phantom stock option. Thereupon, on motion duly made, seconded and vote being taken, the Directors approved the execution of the agreement with Harlan, Betke, & Myers, Inc.

It was then reported that the Touche Ross & Co. audit for the year 1971 had been completed; that the S.E.C. 10-K report had been timely filed and that the proxy statement required in connection with the upcoming Annual Meeting of Shareholders was in preparation.

The Chairman advised that the Executive Committee, after extended negotiations with George Duthie and Patrick King, recommended to the Board of Directors a settlement of their claim that the corporation had failed to comply with the provisions of the agreement covering the acquisition of Stewart Mechanical Enterprises, Inc. relative to obligatory registration of some of the shares received by Messrs. Duthie and King pursuant to said agreement. The proposed settlement would (a) release to Messrs. Duthie and King 80,000 shares of Titan's common stock, the delivery of which was otherwise dependent upon the future market value of Titan's common stock in December of 1972; (b) provide for the sale to Messrs. Duthie and King of the real estate and improvements presently occupied by Stewart Mechanical in Louisville at a price of $244,434, being the highest of two independent appraisals thereof; and (c) provide for the leasing back of said real property by Stewart Mechanical for a net rent of $27,600 per year under a lease, the initial term of which would expire in 1977. Payment by Messrs. Duthie and King of the purchase price of said real estate and improvements would be made by delivery of such number of shares of Titan common stock owned by them which taken at the market value thereof at April 6, 1972 (based upon the mean of reported bid and ask in the over-counter market as reflected in the Wall Street Journal of April 7, 1972) would equal the purchase price.

An extended discussion followed during the course of which it was noted that the settlement would be memorialized in

an amendment to the aforementioned acquisition agreement. The question was also raised as to whether or not Stewart Mechanical, as lessee, should have the right of termination on a year-to-year basis in order that Titan might have the ability to eliminate any question of dealings with management which might be raised in the event Titan should seek listing of its shares on the American or New York Stock Exchange, or in the event such lease might hinder a proposed merger or stock offering or similar transaction.

After the discussion, upon vote being taken, the Board unanimously approved the proposed settlement with Messrs. Duthie and King. Mr. Duthie abstained from voting. It was agreed that counsel should work out the details of the transaction within the general terms recited above.

The Chairman then described the "earn-out" provisions under the agreement which was entered into for the acquisition of Multiplex, Inc. He reported that 100,000 of the shares initially issued in that transaction were held in escrow for release in whole or in part dependent upon earnings of Multiplex in the three-year period ending December 31, 1971 and 100,000 additional shares were subject to payment in whole or in part dependent upon Multiplex earnings for the six-year period ending December 31, 1974. The earnings of Multiplex for the three-year period ended December 31, 1971 had not reached the level necessary under the acquisition agreement formula for the distribution of the entire 100,000 escrow shares. The former shareholders of Multiplex had asserted that the diversion by Titan of Ronald Rosenfeld and Irwin Marmorstein primarily, together with certain other key employees of Multiplex, from the business and affairs of Multiplex to render extended and continuing services to Titan during substantially all of 1971, had materially impaired Multiplex's earnings during said three-year period and would also necessarily reflect unfavorably on the six-year earnings. In satisfaction and compromise of such claim, the Executive Committee recommends that Titan release the 100,000 shares of Titan common stock presently held in escrow subject to the initial three-year earning determination and that the former Multiplex shareholders accept such 100,000 shares in full satisfaction of all claims with respect to any additional earn-out shares under the acquisition agreement to the end that there would be no further earn-out shares distributable for the six-year period ending December 31, 1974. Following a brief discussion and upon vote being taken, the Directors unanimously approved an amendment to the acquisition agreement with Multiplex on the terms recommended by the Executive Committee. Mr. Rosenfeld and Mr. Drost abstained from voting.

The Chairman called upon Mr. Kendis for the customary resolutions relating to the upcoming Annual Meeting of Shareholders. Prior to Mr. Kendis' introducing the resolutions relating to the

Defendant's Exhibit T

Annual Meeting, he mentioned the necessity of disclosure to counsel of all material transactions by Directors with management in order that appropriate disclosures could be made in the proxy material. An extended discussion followed during the course of which the desirability of eliminating potential conflict of interest positions was emphasized.

Upon motion duly made, seconded and vote being taken, the following resolutions were unanimously adopted:

RESOLVED, that the Annual Meeting of the Company be held on Wednesday, May 24, 1972, at 10:00 A.M. Eastern Daylight Savings Time at Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, New York.

RESOLVED, that April 14, 1972 be set as the record date for the determination of those Shareholders eligible to vote at the Annual Meeting of the Company.

RESOLVED, that the Inspectors of Election at said Annual Meeting shall be John O. MacAyeal, corporate counsel of the Company, and a representative of Chase Manhattan Bank, transfer agent for the shares of the Company, said representative to be designated by the Bank; provided that if either of such Inspectors of Election shall be unable to serve, the Chairman or President of the Company shall have the authority to designate a substitute or successor to serve in such capacity.

RESOLVED, that the management slate of Directors to be nominated for election at the Annual Meeting of the Shareholders shall be recommended by the Executive Committee of the Company and shall be deemed to have been named by this Board of Directors provided that the names of the nominees are communicated to each of the Directors of the Company and are approved by a majority of them, reserving to each Director the right to abstain or dissent from the management slate. A report of each Director's affirmance, dissent or abstention shall be made a part of the record of this meeting. (The management slate subsequently submitted to the Directors by the Executive Committee for election as Directors of the Company to serve until the next Annual Meeting of the Shareholders and until their successors are duly elected and qualified was as follows:

Defendant's Exhibit T

Robert James Frankel
George F. Duthie
Aron Drost
Jack L. Farley
Laurence D. Skaller
Patrick King
Herzl Mendelsohn
Ronald Rosenfeld

The Secretary of the Company communicated the foregoing recommended management slate to each of the Directors and his letter of April 19, 1972 disclosing the results of such communication and the affirmative vote of a majority of the Directors is appended as Exhibit "A" to these minutes.)

RESOLVED, that effective as of the next Annual Meeting of Shareholders of the Company, the first sentence of Article III, Section 1 of the By-Laws of this Company be amended to read as follows:

"The number of Directors which shall constitute the whole Board shall be eight."

RESOLVED, that Robert James Frankel, George F. Duthie and Ronald Rosenfeld be and they hereby are appointed to act as management proxies at said Annual Meeting.

RESOLVED, that the Secretary prepare and place in the hands of the Shareholders within the statutory period a Notice of the Annual Meeting, a Proxy Statement in connection therewith, a Proxy therefor and the Annual Report of the Company for the fiscal year ended December 31, 1971.

RESOLVED, that the Secretary affix to the minutes of this meeting a complete set of the documents that will be forwarded to the Shareholders.

After adoption of the resolutions relating to the Annual Meeting, Mr. Kendis presented the following resolution requested by City National Bank, Beverly Hills, California, relating to the Richard S. Gunther settlement previously approved by this Board, and upon motion duly made, seconded, and vote being taken, it was unanimously adopted:

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RESOLVED, that in connection with the settlement between Titan Group, Inc. and Richard S. Gunther approved by this Board at its Special Meeting on December 9, 1971, Robert James Frankel, Chairman, by his sole signature, is granted the authority to execute all instructions to City National Bank, Beverly Hills, California and to Robert Weil, each of whom is an escrow agent holding shares of Bomaine Industries (formerly Boston & Main Industries, Inc.) which are, in part, the subject of the settlement with Richard S. Gunther and is granted the further authority on behalf of this corporation to execute all stock powers necessary or appropriate to carry out such instructions and to consummate the said settlement, and to perform such other actions and to execute such other instruments as may be necessary or appropriate for the consummation of said settlement with Richard S. Gunther.

The following items were then briefly touched upon:

1. The Chairman reported on the status of the Yosemite project.

2. Ronald Rosenfeld reported on the steps being taken with respect to the sale of the few remaining properties in the Company's real estate investment portfolio.

3. It was agreed that no further consideration would presently be given to a reverse stock split.

4. First quarter earnings and potential earnings for the year were reviewed.

5. The Chairman referred to consultants being employed by the Corporation in various capacities and reviewed their services, expertise and compensation.

6. A report was made of Executive Committee objectives, which included the creation of a management control group, the reorganization of insurance divisions for better functioning, the cooperation among construction divisions and consolidation for best potential and utilization, and the efforts to be made during the year for further restriction of unproductive operations.

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Minutes of a Special Meeting
of the Board of Directors of
Titan Group, Inc., held
April 6, 1972

7. Disparities in compensation and the need for a more equitable distribution of rewards for efforts and results.

The meeting adjourned for lunch at 1:30 and reconvened with all present at 2:30 P.M.

An extended discussion followed relating to Harold Faggen and the unsuccessful efforts to negotiate any restructuring of his position with respect to the debentures received by him pursuant to the acquisition of his companies. Mr. Lawrence Powers, special counsel engaged by the Company to review the Faggen situation, had joined the meeting and was requested to report on his investigation and his recommendations, if any. Mr. Powers reported that he had had interviews with several persons, had examined documents made available to him relative to the acquisition of the Faggen companies, and had concluded that a material overstatement of pre-tax earnings had been made by Mr. Faggen in a confidential memorandum to the Company, which was actionable misrepresentation under the Securities Act. He commented also on the inability of the Company to obtain certain records of the Faggen companies notwithstanding demand upon Mr. Faggen and upon Mr. Joseph Warren, the accountant for Mr. Faggen and for those companies. Mr. Powers expressed the opinion that the Company had a right of action to rescind based upon securities fraud and recommended the filing of a complaint in the Federal District Court. He agreed to confirm this opinion to the Board by letter.

The Chairman stated that the Executive Committee had previously considered Mr. Powers' report and concurred in his recommendation. An extended discussion followed in which all members of the Board participated. Thereupon, on motion duly made, seconded and vote being taken, the Board, upon the information furnished and expressly in reliance upon the opinion of special counsel, authorized the filing of a complaint to be prepared by Mr. Powers seeking, among other things, rescission of the Faggen transaction. Mr. Robinson abstained from voting on the ground that his firm is escrow holder of a portion of the debentures received by Mr. Faggen, to guarantee payments to Mr. Faggen's former wife under a divorce agreement. The Secretary was instructed to attach to the minutes of this meeting the letter from Mr. Powers setting forth his opinion and recommendation as to the filing of the Faggen lawsuit when such communication is received from him.

The Chairman then briefly remarked upon the negotiations which had been conducted with Mr. Robinson concerning his claim for deferred compensation. The Chairman stated that the negotiations had not been productive to date and that he had stopped further

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Minutes of a Special Meeting
of the Board of Directors of
Titan Group, Inc., held
April 6, 1972.

payments to Mr. Robinson. Mr. Robinson commented that as far as he was concerned the door was still open to further discussion.

There being no further business to come before the meeting, it was duly adjourned at 4:30 P.M.

A. M. Kendis
Secretary of the Meeting

ATTEST:

Robert James Frankel
Chairman

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TITAN GROUP, INC.

RONALD A. ROSENFELD
VICE PRESIDENT
SECRETARY

April 19, 1972

Mr. Alvin M. Kendis
Burke, Haber & Berick
Central National Bank Building
15th Floor
Cleveland, Ohio 44114

Re: Board of Directors of Titan Group, Inc. would be presented by management to the stockholders at the Annual Meeting on May 24, 1972

Dear Alvin:

The management slate of directors to be presented to the stockholders on May 24, 1972, is as follows:

Robert James Frankel
George F. Duthie
Aron Drost
Jack L. Farley
Laurence D. Skaller
Patrick King
Herzl Mendelsohn
Ronald Rosenfeld

On April 7, 1972, I personally spoke with the following existing directors of the company who expressed their approval of the above management slate: Robert James Frankel, George F. Duthie, Aron Drost, Jack L. Farley, Alvin M. Kendis, and I had indicated my approval.

On April 12, 1972, I spoke via telephone to Herzl Mendelsohn and Harold Faggen with regard to the management slate of directors. Mr. Mendelsohn expressed his approval of the slate and Mr. Faggen indicated that he would abstain.

I spoke with Ben Robinson on April 19, 1972, with regard to the management slate of directors. He indicated he would abstain on the vote.

Very truly yours,

TITAN GROUP, INC.

Ronald Rosenfeld
Executive Vice President
cc: Messrs. Frankel, Hatcher, MacAyeal
RR/ldw

Exhibit A to minutes of Special Meeting of the Board of Directors of Titan Group, Inc. held April 6, 1972.

2121 SOUTH GREEN ROAD, CLEVELAND, OHIO 44121 (216) 291-2500

1720

Defendant's Exhibit T

POWERS AND GROSS
ATTORNEYS AT LAW
110 EAST 59TH STREET
NEW YORK, N.Y. 10022

PLAZA 2-8004
AREA CODE 212

April 25, 1972

Mr. Robert J. Frankel
Chairman of the Board
Titan Group, Inc.
1325 Inwood Terrace
Fort Lee, New Jersey

Re: Titan Group, Inc. vs. Harold Faggen

Dear Bob:

You asked me to confirm in writing the legal opinions I expressed at your Board of Directors meeting two weeks ago, in connection with the proposed action seeking rescission and/or damages against Harold Faggen with respect to the acquisition of the Faggen Companies.

The case in substance is one of an intentional written misrepresentation with respect to the earnings of the Faggen Companies for the four years preceding their acquisition late in 1968 by Titan Group, Inc. A selling memorandum was prepared by Faggen, delivered to members of the Board of Directors of Titan, and relied upon by such members of the Board and counsel at the time. This selling memorandum, a copy of which has previously been circulated at the Board meeting, and shown to Faggen's counsel, overstates "Net Income - Pretax" as adjusted to basis which will prevail after acquisition, in very substantial amounts. Our studies undertaken by Dan Hatcher after great difficulty in obtaining the original accounting records of the Faggen Companies, indicate an overstatement of income by nearly 30% in 1968, a 78% overstatement in 1967, a 49% overstatement in 1966 and a 28% overstatement in 1965.

Notwithstanding Mr. Faggen's attorney stating to me that all of these overstatements can be explained by deducting from the represented net income various alleged savings and salaries, pension payments and other items expected to occur after the acquisition, the disparities between the represented figures and the actual net income recently redetermined by Dan Hatcher's accounting group are too great to be explained by these types of adjustments.

Defendant's Exhibit T

POWERS AND GROSS

Mr. Robert J. Frankel

April 25, 1972

Moreover, we have the situation of a written selling memorandum, upon which a 10 times pretax earnings multiple was based, delivered by Harold Faggen to Ben Robinson and then explained just a couple of weeks ago by the alleged statement "Harold said no one ever asked him to explain these differentials". In my view, this selling memorandum represents a calculatedly misleading document which was not explained and was the foundation for the whole pricing structure of the Faggen acquisition.

As explained to the Board, these written misrepresentations constitute a violation of Rule 10b-5 of the Securities and Exchange Commission under the Securities Exchange Act of 1934. I have annexed hereto a copy of our draft complaint, based primarily upon Dan Hatcher's reconstruction of the income of the Faggen Companies during the represented years, and setting forth the applicable statutes, theories of recovery and remedies which should be used by the corporation.

I wish to reaffirm to you that I believe Titan Group, Inc. is entitled to recovery on this cause of action, and should move forward to press its claims as outlined in the proposed complaint. Naturally, the complaint is subject to revision and further verification by Dan Hatcher's accounting group and yourself, but upon completion of a final draft, I would expect to file the action promptly.

Very truly yours,

Lawrence M. Powers

LMP/ms
Attachment

1722

Defendant's Exhibit T

POWERS AND GROSS
ATTORNEYS AT LAW
110 EAST 59TH STREET
NEW YORK, N.Y. 10022

PLAZA 2-8004
AREA CODE 212

April 25, 1972

Mr. Robert J. Frankel
Chairman of the Board
Titan Group, Inc.
1325 Inwood Terrace
Fort Lee, New Jersey

Re: Titan Group, Inc. vs. Harold Faggen

Dear Mr. Frankel:

You asked me to relate to you our opinion with respect to proposed litigation against Harold Faggen, insofar as it affects existing banking and other creditor relationships of Titan Group, Inc.

The nature and substance of the proposed action against Harold Faggen seeking rescission and/or damages in connection with misstatements of fact made by him in a written selling memorandum to Titan's management in 1968 are summarized in a prior letter to you and in the proposed complaint, copies of which you are free to exhibit to your banks or other major lenders, in the event you deem it necessary.

Insofar as the notes held by Mr. Faggen are concerned, they constitute subordinated debt, and are entitled 4% Convertible Instalment Notes due November 1, 1978. Paragraph 6 of each of such notes states that payment of the notes is expressly subordinated to the prior payment of any and all senior debt of Titan Group, Inc. and senior debt consists among other things of any indebtedness for money borrowed from financial institutions (banks, trust companies, insurance companies, etc.) The substance of the litigation is that the consideration paid by Titan Group, Inc., consisting primarily of these $5,500,000 in subordinated notes, should be returned to Titan in exchange for the several assets of the Faggen Companies at their value when received in December 1968. If the case goes to trial and ultimate judgment in favor of Titan, this would be the result which we are seeking.

At this point, Titan Group, Inc. is within its legal rights to refuse to make any further payments of interest or principal on these notes which it was induced to issue through

Defendant's Exhibit T

POWERS AND GROSS

Mr. Robert J. Frankel

April 25, 1972

violation of Rule 10b-5 of the Securities Exchange Act of 1934 By Faggen, with respect to the written memorandum used to induce the transaction. It can be anticipated that Faggen will claim that Titan is in default on the notes in refusing to pay, and will attempt to accelerate the maturity thereof, making this $6,500,000 in notes the subject of a detailed explanatory footnote by the accountants in future reports by Titan, which may be deemed to give it the quality of current debt. However, in our opinion, the case is a strong one, Titan is behaving in an entirely proper manner to protect its assets in bringing on such litigation, and the surface accounting effect of vigorous action to protect the assets of the corporation is appropriate and necessary under the circumstances.

I believe that a full explanation of the background and the necessity for this action should be satisfactory to the various holders of senior debt of the corporation, and any other creditors who are concerned about Titan's unwillingness to keep paying upon these notes, which were induced through misrepresentations of fact.

I trust the foregoing complies with your request, and will be happy to forward any other explanation required.

Very truly yours,

Lawrence M. Powers

LMP/ms

DEFENDANT'S EXHIBIT U--EVALUATION OF NOTES

MEMORANDUM

TO: Messrs. Shatzkin and Cooper DATE: March 5, 1974

FROM: Fred Shinagel SUBJECT: Titan Group v. Faggen

You requested an evaluation of the $5,500,000 4% Convertible Installment Notes issued by Titan Group on December 2, 1968 to Mr. Faggen, in connection with the purchase of his business.

In connection with this valuation, you have given me (1) the agreement of sale, dated December 2, 1968 with Exhibit A, which describes the Notes; (2) Titan Group Annual Reports for 1967 and 1968; and (3) Bache & Co. research report on Titan dated May 13, 1969. I have also referred to standard statistical manuals of Moody's and secured a price history of Titan common stock from Standard & Poor's Statistics. I have made use of standard financial reference sources and compound interest tables.

Titan Group:

Titan Group toward the end of 1968 was a company in transition. During the previous year, it had engaged a new management team which announced its ambition to convert the company from a real estate holding activity with deficit earnings which was financing itself out of its depreciation charges into an operating company with operating income.

During the year, the company began to divest itself of some properties to raise working capital and reduce its debt burden. Under this process, management reappraised its assets and judged some leaseholds to be worth over $2.5 million more than on the books and established a reserve of almost $2 million for other properties believed to have declined in value.

The acquisition of the Faggen Companies appears to have been the initial significant move to secure operating income.

In 1966-1968, Titan operated with deficit income, as follows:

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and Cooper — March 5, 1974

	Year Ended December 31 (Thousands)		
	1966	1967	1968
Revenue	$25,637	$24,600	$23,101
Interest and related expenses	4,115	3,183	2,474
Income before Depreciation	3,601	2,680	2,643
Net after Depreciation	(1,521)	(1,032)	(568)
Net after Sale of Assets and Extra Items	$ 45	$ (811)	$ 1,356
Interest coverage by pre-tax income	None	None	None

Note that there was no pre-tax income to cover interest charges which is one of the conventional yardsticks of the quality of a company's ability to service its debt. In Titan's case, the cash flow generated by its depreciation was used to pay its interest charges.

Titan had a substantially leveraged balance sheet at year-end 1968, composed of approximately seventy-five per cent (75%) debt and twenty-five per cent (25%) equity, summarized as follows with comparisons for 1966 and 1967:

	At December 31 (Millions)		
	1966	1967	1968
Current Assets	$10.4	$ 9.7	$16.4
Current Liabilities	14.2	12.4	13.0
Net Working Capital	(3.8)	(2.7)	3.4
Net Property	72.2	55.8	40.5
Prepaid Items	2.3	2.8	2.9
Intangibles	-	0.5	4.7
Total Capital	$70.7	$56.4	$51.5

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and Cooper

March 5, 1974

	At December 31 (Millions)					
	1966		1967		1968	
Mortgages	$58.7	83%	$45.2	80%	$32.8)	75%
4% Convertible Note	-		-		5.5)	
Equity	12.0	17%	11.2	20%	13.2	25%

Note that management had been successful in reducing the mortgage burden of the company and, in the process, improving the debt/equity ratio which had been 83%/17% in 1966 and 80%/20% in 1967.

The stock market price of Titan common quadrupled in 1968, from 4 bid in January to 17 3/8 bid on December 2nd (appended is the daily price record for the stock for calendar 1968 from the Standard & Poor's ISL Index). Following are the yearly high-low price ranges for the years 1965-1968 (from Standard & Poor's):

	High	Low
1965	7	4
1966	7	3
1967	5	3
1968	20	4

The price appreciation during 1968 reflected the speculative market environment of that period, plus speculator anticipation of success by the new Titan management. At the time of valuation of December 2nd, only the Faggen acquisition was a reality.

Description of Notes:

The actual Note description is appended. In effect, these were promissory notes subordinate to future institutional debt, paying interest at 4% a year and payable in five equal annual installments from the end of the sixth year, through the tenth year. The Notes also were convertible into stock at the rate of $20 per share for $4,750,000 principal amount and $15 per share for

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and Cooper — March 5, 1974

$750,000 of principal amount; for the combined $5,500,000 this represents an effective conversion price of $19.32 per share, or an eleven per cent (11%) premium over the market price of 17 3/8 on December 2nd. If all the Notes were converted, 287,500 shares of Titan common would be issued.

If converted, these shares were subject to investment letter restriction and would not be freely marketable until at least two or three years under ordinary circumstances because of SEC regulations. Titan agreed that, after January 1, 1970 (thirteen months after valuation date) and for two years thereafter, it would arrange for the registration of only twenty-five per cent (25%) of the total shares issuable. After January 1, 1972, all the shares could be sold under a registration statement paid by the company.

Market and Interest Rates in Late 1968:

The market in November and December 1968 reflected a bullish mood. Prices had been rising for over two years, Nixon was elected President, auguring the beginning of a Republican Administration. The Dow Jones Industrial Average, at 985 on December 2nd, was approaching the 1000 level it had reached in early 1966. The low priced stock index and the American Stock Index reached new high ground which, in retrospect, was a top. A seat on the New York Stock Exchange was sold for $515,000.

During the period October-December 1968, the cost of money had been tightening. The prime interest charged by banks to their top credit risks ranged between 6% and 6 1/2%. It firmed at 6 1/2% on December 2nd. Thus, top credit risk customers had to pay the equivalent of 7.8% on their borrowings because banks require that at least twenty per cent (20%) of the funds borrowed to remain on deposit at the bank (6.5 + 20% x 6.5 = 7.8).

Yields on newly-issued and publicly-traded corporate bonds also increased during the October to December 1968 period with lesser quality issue yields increasing more rapidly. The following tabulation illustrates this trend:

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and Cooper

March 5, 1974

Moody's Average of Yields on Newly-Issued Corporate Bonds

	Composite	Aaa	Aa	A	Baa
1968					
Oct.	6.81%	6.59%	6.79%	6.89%	6.95%
Nov.	6.92	6.83	6.74	7.08	7.36
Dec.	7.17	6.92	7.11	7.34	7.45

Source: Moody's Industrials 1973.pp. a52-53

Note that these are large issues publicly underwritten by investment bankers.

Moody's definition of the lowest ranked issue cited above and for which records are kept, Baa, is illuminating for our purpose. That is:

> Baa: Medium grade obligations - neither highly protected nor poorly secured. Interest payments and principal security appear adequate for the present but protective elements are lacking. Speculative character.

Traditionally, these Baa bonds are from companies with financial characteristics whose interest coverage by net earnings is at least two times and long term debt/equity ratio is not poorer than one-third/two-thirds and generally embrace a conversion into common feature.

Valuation:

The valuation of these notes as of December 2, 1968 is the value on that day of receiving $1,100,000 annually for five years starting with November 1, 1974 (i.e., starting at the end of their sixth year of issue) plus the privilege to convert these Notes into 387,500 shares of Titan common stock.

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and
Cooper March 5, 1974

Developing the current value of money to be received in the future is a simple mathematical calculation facilitated by standard statistical tables. However, the key variable to be established is the interest rate which would be appropriate for the quality, risk, size and other features of this issue. If, for example, the 4% interest rate of the Notes were the appropriate one, then the present value of the Notes would be equal to their future or face value. That would mean the interest payments from the Notes fully compensate for the cost of money, inflation, risk, marketability, etc.

Such is not the case. A prime credit risk had to pay a commercial bank the equivalent of 7.8% interest on money borrowed (6 1/2% plus compensating balances). Companies with a poorer credit standing have to pay upwards of 4% points of premium on the prime rate. Banks, however, rarely grant loans at a 4% premium rate because they are unwilling to accept the greater risk involved in lower interest coverage or inadequate collateral supporting the loan.

If financial intermediaries had tried to create this loan, their standard for interest rate would have been at least 4% points higher than the Baa rate of larger public issues, suggesting an interest rate of 11%.

Considering the deficit earnings history of Titan (even adjusting pro forma for the acquisition of the Faggen Companies), the substantially leveraged capital structure with 75% debt, the absence of collateral security for the Notes and their subordination to any future institutional or bank debt that may be created, it would appear that an interest rate of at least 11% a year would be appropriate here. Since the Notes already pay 4% interest, the present value derivation should be calculated using a rate of 7% (i.e., 11% minus 4%) as follows:

Present Value of $1 received at end of	7%
6th year	0.666
7th "	.623
8th "	.582
9th "	.544
10th "	.508
	2.923

or 2.923 x $1,100,000 = $3,215,000.

Defendant's Exhibit U

Memorandum to Messrs. Shatzkin and
Cooper

March 5, 1974

The conversion feature in the Notes is already reflected in the 11% interest rate assumption. It provides a necessary speculative option to participate in the possible long term success of Titan that is traditionally granted as a "sweetener" feature for debt that is poorly secured. The conversion price was at a conventional 11% premium over market. But the market itself was highly inflated having quadrupled during the year to a level of approximately a four-fold premium over book value of $4 per share (or $5 per share if the Notes are capitalized). The shares themselves would be severely limited as to marketability for the initial three years, until the end of 1971.

Overall, I believe the appropriate value of these Notes on December 2, 1968 was, at most, $3,200,000.

Fred Shinagel

FS/mh
Encls.

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Defendant's Exhibit U

INDUSTRIAL STOCKS

196

THERMOTECH INDUSTRIES		THRIFT DRUG CO		FIREMAN'S MARINE SVC		TIFFANY + CO		TITAN GROUP	
SECURITY DESCRIPTION		SECURITY DESCRIPTION		SECURITY DESCRIPTION		SECURITY DESCRIPTION		SECURITY DESCRIPTION	
TICKER SYMBOL THT	SHARES OUTSTANDING 1246	TICKER SYMBOL TDG	SHARES OUTSTANDING 1225	TICKER SYMBOL TIM	SHARES OUTSTANDING 1439	TICKER SYMBOL TIF	SHARES OUTSTANDING 1743	TICKER SYMBOL TIN	SHARES OUTSTANDING 7611
BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED
HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY	
		31	32	35-4	36	31	31-6	4-3	4-5
		31	32	35-2	35-6	30-6	31-4	4-3	4-5
		31	32	35-2	35-6	30-4	31-2	4-1	4-4
		31	32	35-3	35-7	30-6	31-4	4-4	4-4
		31	32	35-2	35-7	30-4	31-4	4-1	4-3
		31-2	32-2	36	36-4	30-4	31-4	4	4-3
		31-4	32-4	36	36-4	30-4	31-4	4	4-3
		31-4	32-4	36	36-4	30-4	31-4	4	4-3
		32-6	33-4	36-6	37-2	30-4	31-2	4	4-3
		33	34	36-6	37-4	30-2	31	4	4-3
		33	34	37-2	37-6	30-2	31	3-7	4-1
		33	34	36-6	37-2	30-6	31-4	3-7	4-2
		33-4	34-4	36-4	37	30-4	31-4	3-7	4-1
		32-4	33-4	36-4	37	30-6	31-4	3-7	4-2
		33	34	36-4	37	30-6	31-4	3-7	4-1
		33-4	34-4	37	37-4	30	30-6	3-7	4-1
		33-4	34-4	36-7	37-3	29-4	30-2	3-7	4-1
		33-4	34-4	36-7	37-3	29-4	29-4	4	4-2
		34-4	35-4	37-1	37-5	29-2	29	3-7	4-1
		35	36	36	36-6	29-4	29-2	4-1	4-3
		36	37	36	36-4	28-4	29-2	4-4	4-6
		35-4	37-4	36	36-4	28-2	29	4-4	4-6
		36	37	36	36-4	28	28-6	4-7	5-1
		36	37	36-4	39	28	28-6	4	5-2
		36-7	38-7	36-7	38-6	27-2	28	4-7	5-2
8-7	9-1	34-4	34-4	36-3	36-7	27	27-6	4-6	5-1
8-4	9	34-4	35-4	36-3	38-7	27	27-6	4-6	5-1
8-7	8-6	34-4	35-4	36-4	39	26-6	27-4	4-3	4-6
8	8-6	33	34-4	36-7	38-7	26	26-6	4-1	4-4
HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY	
8	8-6	33	34	36-5	39-1	25-4	26-2	4-3	4-6
7-6	8	32	31-4	36-4	39	25	25-6	4-6	4-6
7-6	8	31	32	36-7	38-6	24-6	26-2	4-6	5-1
7-6	8-7	31-2	32-2	37-6	38-2	25-4	26-2	5	5-2
8	8-6	31-4	32-4	37-2	37-6	25-4	26-2	5	5-2
8-3	8-7	31-4	32-4	36-6	37-2	25-4	26-2	5-1	5-3
8-3	8-7					25-6	26-2	5-1	5-3
HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY	
8-6	9	32	33	36-4	37	25-4	26-2	5-2	5-6
8-2	8-6	31-6	32-6	36-4	37	25-6	26	5-1	5-3
8-2	8-6	31-4	32-4	36-4	36-7	25-2	26	4-7	5-4
8	8-6	31-4	32-4	36-4	36-6	25-2	26	5-3	5-5
8	8-6	31-4	32-4	36-4	36-6	24-6	25-7	5-3	5-5
8	8-6	31-4	32-4	35-6	36-2	24-2	24-6	5-3	5-5
7	7-6	31-2	32-2	35-6	36-2	24	24-6	5-2	5-4
7-2	7-6	31	32	36	36-2	23-6	24-4	5-1	5-3
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7-6	8-2	31-2	32	33-7	34-5	24-4	24-6	5-3	5-5
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7-2	8	30-4	31	33-2	34	24	24-6	4-5	5-2
7-6	8-2	29-6	30-6	33-7	34	24-6	25	4-2	4-5
7-4	8	29-6	30-4	31	31-6	24-4	25	4-4	4-6
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7-4	8	29-6	30-4	33	33-6	25	25-4	7	7-2
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7-1	7-4	30	31	32-2	33	25	25-6	8-2	8-4
7-2	7-4	30	31	32	32-6	25-4	26	8-5	8-7
7-2	7-6	29-6	30-4	33	33-4	26-4	27-2	8-6	9
7-1	7-6	29-6	30-6	32-6	33-4	28	28-6	8-5	8-7

EARN	$ .41		$ 2.84		$ 1.84		$ 1.84		$ .11
DIV	ADDED TO LIST		.150		.120		.150		
RATE			.300		.600		.300		
INTRINSIC DIFFERENCE	FEB - AUG -		FEB - AUG -		FEB - AUG -		FEB - AUG -		FEB - AUG -
	MAR - SEP -		MAR - SEP -		MAR - SEP -		MAR - SEP -		MAR - SEP -
	APR - OCT -		APR - OCT -		APR - OCT -		APR - OCT -		APR - OCT -
	MAY - NOV -		MAY - NOV -200		MAY - NOV -		MAY - NOV 19715		MAY - NOV -
	JUN - DEC -		JUN - DEC -		JUN - DEC -19888		JUN - DEC 19715		JUN - DEC -
	JUL - JAN -2580		JUL - JAN -		JUL - JA -		JUL - JAN -		JUL - JAN -

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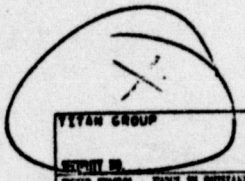
Defendant's Exhibit U



INDUSTRIAL STOCKS

168

	TEXAN GROUP		YORKHEIM CORP		TOPPYS INTL INC		TOPGINOL INDUSTRIES		TRACOR INC		
	SECURITY NO.		SECURITY NO.		SECURITY NO.		SECURITY NO.		SECURITY NO.		
	TICKER SYMBOL TXN THOUS SH OUTSTANDING 9671		TICKER SYMBOL TOK THOUS SH OUTSTANDING 694		TICKER SYMBOL TPZ THOUS SH OUTSTANDING 619		TICKER SYMBOL TGL THOUS SH OUTSTANDING 3755		TICKER SYMBOL TRC THOUS SH OUTSTANDING 1899		
	BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED	
6/1	7-6	8-1	30	31-4			2-3	2-5	52-4	54-4	6/1
2	8	8-2	30	31-4			2-3	2-5	53	55	2
3	8-1	8-3	30	32			2-3	2-5	56	58	3
4	9-2	9-5	30	31-4			2-3	2-5	55-4	57	4
9	10-2	10-5	15-4	16-2			2-6	3	54-4	56-5	9
8	10-1	10-6	17-4	18-6			2-7	3-1	54	56	8
9	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		9
10	10-2	10-6	17-4	18-4			3	3-2	57	58	10
11	10	10-2	16-4	17-4			2-7	3-1	57	58-4	11
12	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		12
15	9-5	10	16-2	17-2			2-6	3	53	55	15
16	9-6	9-7	16-2	17			2-6	3	57	59	16
17	9-3	9-6	16-4	17-2			2-6	3	57-4	59	17
18	10-1	10-6	17	18			2-6	3	57	58-4	18
19	10-6	10-7	16-6	17-6			2-6	3	56	58-6	19
22	11-5	12	16-6	17-7			2-6	3	57	59	22
23	11-2	11-6	16-6	17-6			2-6	2-6	57	58-4	23
24	12-2	12-6	16-6	17-6			2-6	2-6	57	58-6	24
25	13	13-6	17-2	18			2-6	2-6	57-6	59	25
26	13-2	13-7	17	17-6			2-6	2-6	57-6	59	26
29	13-6	14-1	17	17-6			2-6	2-6	58	59-6	29
30	13-7	14-2	17-6	18-2			2-6	2-6	59	59-6	30
5/1	13-6	14	17-2	17-6			2-6	2-6	58-6	60	5/1
2	13-1	13-6	17-6	18-2			2-6	2-6	59-6	61	2
3	12-3	12-6	18-6	20-2			2-6	2-6	61-6	63	3
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9	14-2	14-6	22-6	24	23-6	24-6	2-6	3	62	63-6	9
10	14-5	15-1			23-6	24-6	2-6	3	60-6	62	10
13	14-6	15-2	20-6	22	24-6	26-6	2-6	3	60-6	62	13
14	14-6	15	19-6	21-6	22-6	23-6	2-6	3	60	61-6	14
15	14-2	14-6	20	21-2	24	25	2-6	3	59-6	61	15
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17	13-6	14-2	20	20-6	22-6	23-6	2-6	3	55	57	17
20	14-1	14-6	20-6	22	24	26	2-6	3	56	58	20
21	15-1	15-6	20	22	24-6	25-6	2-6	3	57-6	59-6	21
22	15-6	16-2	20	21	26-6	27-6	2-6	3	57	59	22
23	16-6	17	20-6	21-6	25-6	26-6	2-5	2-7	63	65	23
24	18	18-6	20-6	21-6	27	28	2-5	2-7	63	65	24
27	17-6	18-2	20-6	21-6	28	29	2-5	2-7	64	66	27
28	17-2	17-6	20-7	21-2	29-6	30-6	2-5	2-7	65	67	28
29	16-3	16-7	20-6	21-6	31-6	32-6	2-5	2-7	65	67	29
30	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		30
31	16-5	17-1	21-6	22	33	34	2-5	2-7	67	69	31
6/3	16-2	16-6	21-2	22-2	33	34	2-5	2-7	67	69	6/3
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6	18-1	18-6	24	25	31-6	32-6	2-6	3	67	69	6
7	18-1	18-6	24-6	25-6	34	35	3	3-2	68	70	7
10	18-2	18-6	25-6	26-6	35-6	36-6	3-3	3-6	70	72	10
11	17-7	18-7	25	26	34-6	35-6	3-6	4-1	71	73	11
12	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		12
13	17	17-6	25	26	33-6	34-6	4-1	4-3	72	74	13
14	16-2	17	23	24	32-6	33-6	3-6	4-1	71	73	14
17	16-6	16-7	22	24	30	31	3-5	4	70	72	17
18	15-7	16-6	21-6	23	30	31	3-5	4	67	69	18
19	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		19
20	15-2	15-5	21-6	23	29-6	30-6	3-5	4	69	71	20
21	15-1	15-6	21-6	23	31-6	32-6	3-5	4	70	72	21
24	15-6	15	23	24	31-6	32-6	3-3	3-6	73	75	24
25	15-7	16-3	22-6	23-6	32-2	33-2	3-3	3-6	74	76	25
26	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		26
27	13-6	14	20-6	21-6	31	32	3-3	3-6	73	75	27
28	13-6	14-1	20	21-6	30	31	3-2	3-5	71	73	28
EARN	DEFICIT $ .72		* 1961 STOCK $ 1.26		.050 $ .87		DEFICIT $ .15		$ 1.14		EARN
DIV			.150		* ADDED TO LIST						DIV
DATE			.666		.788						DATE
J	MAY - NOV -		MAY - NOV -		MAY - NOV -		MAY - NOV -1000		MAY - NOV -		J
A T	JUN - DEC -		JUN - DEC -		JUN - DEC -		JUN - DEC -		JUN - DEC -2221		A
S E	JUL - JAN -		JUL - JAN -		JUL - JAN -		JUL - JAN -		JUL - JAN 17036		S
I A	AUG - FEB -16788		AUG - FEB -		AUG - FEB -		AUG - FEB -7000		AUG - FEB 483		I
D M	SEP - MAR -17844		SEP - MAR -		SEP - MAR -		SEP - MAR -4000		SEP - MAR 281		D
E S	OCT - APR -		OCT - APR -		OCT - APR -		OCT -2500 APR -900		OCT - APR -		E
R											R

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Defendant's Exhibit U

INDUSTRIAL STOCKS

217

TIMELY CLOTHES			TITAN GROUP			TOKHEIM CORP			TOPSYS INTL INC			TOPGTNOL INDUSTRIES		
SECURITY NO.			SECURITY NO.			SECURITY NO.			SECURITY NO.			SECURITY NO.		
TICKER SYMBOL	THOUS SH OUTSTANDING		TICKER SYMBOL	THOUS SH OUTSTANDING		TICKER SYMBOL	THOUS SH OUTSTANDING		TICKER SYMBOL	THOUS SH OUTSTANDING		TICKER SYMBOL	THOUS SH OUTSTANDING	
TTY	1		TIN	7670		TOK	654		TPZ	619		TGL	3926	
	BID	ASKED		BID	ASKED		BID	ASKED		BID	ASKED		BID	ASKED
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2	18	21		16-1	16-5		21	22-4		28	30		3-2	3-4
3	18	21		16-4	17-2		21	22-4		29	30		3-2	3-4
4	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
5	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
8	18	21		16-6	17-2		21	22		30-6	31-6		3-1	3-1
9	18	21		16-3	16-7		21-4	23		30-4	31-4		2-7	3-1
10	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
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12	18	21		16	16-5		22-2	23-2		30	31		2-7	3-1
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16	18	21		16-4	19		22-2	23-2		29-4	30-4		2-6	3
17	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
18	18	21		16-2	16-6		22-2	23-2		29-4	30-4		2-6	3
19	18	21		17-1	17-5		22	23		28	29		2-6	3
22	18	21		15-6	16-1		22	23		27	28		2-6	3
23	18	21		13-6	16-2		21-4	22-4		28	27		2-7	3-1
24	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
25	18	21		16-1	16-5		21-4	22-4		26-4	27-4		2-7	3-1
26	18	21		16	16-4		20-4	21-4		26-4	27-4		2-7	3-1
29	18	21		15-4	16-1		20-6	21-6		27	28		2-7	3-1
30	18	21		13	13-4		20-2	21-2		27	28		2-7	3-1
31	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
8/1	18	21		13	13-4		20-2	21-2		27-4	28-4		2-7	3-1
2	18	21		12-7	13-3		20-2	21-2		27-4	28-4		2-6	3
5	18	21		13	13-6					27-4	28-4		2-6	3
6	18	21		14-1	14-5					28	29		2-6	3
7	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
8	18	21		14-6	15-2		19-6	22-6		28-4	29-4		2-6	3
9	18	21		14	14-6		19-6	22-6		29-6	30-6		2-6	3
12	18	21		14	14-4		19	23		31-4	32-4		2-6	3
13	18	21		14	14-4		19-2	20		31-4	32		2-6	3
14	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
15	18	21		13-5	14-1		19	20		30-4	31-4		2-6	3
16	18	21		13-2	13-6		18-4	19-4		28	29		2-6	3
19	18	21		13-2	13-6		18-6	19-6		28	30		2-6	3
20	18	21		13-4	14		18-4	19-7		28-6	29-6		2-6	3
21	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
22	18	21		13-6	14-1		18-4	19-2		28-2	29-2		2-5	2-7
23				13-3	13-7		18-4	19-2		30-4	31-4		2-5	2-7
26	18	21		13-6	14-1		18	19		31-4	32-4		2-5	2-7
27	18	21		13-3	13-6		17-4	18-4		30-2	31		2-6	2-6
28	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
29	18	21		14-3	14-7		17-2	18-2		29-4	30-4		2-6	2-6
30	18	21		14-4	15		17-2	18-2		29-4	30-4		2-6	2-6
9/2	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
3	18	21		14-4	15		17-2	18-2		30-4	31-4		2-6	2-6
4	18	21		14-3	14-7		17	18		30	31		2-6	2-6
5	18	21		14-2	14-6		17-4	18-4		30-4	31-4		2-6	2-6
6	18	21		14-1	14-5		17-4	18-4		30	31		2-6	2-6
9	18	21		14-7	14-7		17-6	18-6		32-6	33-6		2-6	2-6
10	18	21		15	15-4		17-6	18-6		34	35		2-6	2-6
11	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
12	18	21		15-6	16-2		18	19		36	37		2-6	3
13	18-6	20		15-6	16-2		17-4	18-4		36	37		3-1	3-6
16	18-6	20		16-6	16-2		18-2	19-2		36	37		3-6	3-7
17	18-6	20		15	15-6		18-2	19-2		37-4	38-4		3-7	3-7
18	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
19	18-6	20		14-6	15-1		19	20		38-6	39-6		3-6	4-1
20	18-6	20		14-6	15-1		20	21		37-4	38-4		3-6	4-1
23	18-6	20		14-3	14-7		20-2	21-2		36-6	37-6		3-6	4
24	18-6	20		14-3	14-7		20-2	21-2		36-6	37-6		3-6	4
25	HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY			HOLIDAY	
26	18-6	20		14-7	15-3		20-6	21-6		36-6	37-6		3-3	3-7
27	18-6	20		14-3	14-7		20-6	21-6		36	36		3-3	3-5
30				14-2	14-6		20-6	21-6		35	36		3-6	3-6
EARN				DEFICIT $ .14			.198	$ 1.78		.098	$ .84		DEFICIT $ .86	
DIV														
RATE							.400			.288				
INTERIM DIVS	AUG - FEB - SEP - MAR - OCT - APR - NOV - MAY - DEC - JUN - JAN - JUL -		AUG - FEB -16788 SEP - MAR -17869 OCT - APR -9998 NOV - MAY -22747 DEC - JUN -10588 JAN - JUL -			AUG - FEB - SEP - MAR - OCT - APR - NOV - MAY -250 DEC - JUN - JAN - JUL -			AUG - FEB - SEP - MAR - OCT - APR - NOV - MAY - DEC - JUN - JAN - JUL -			AUG - FEB -7750 SEP - MAR -4000 OCT -2500 APR -5000 NOV -1000 MAY -3000 DEC - JUN - JAN - JUL -		

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Defendant's Exhibit U

INDUSTRIAL STOCKS

234

	TIFFANY + CO		TIMELY CLOTHES		TITAN GROUP		TOKHEIM CORP		TOPSYS INTL INC		
	SECURITY NO.		SECURITY NO.		SECURITY NO.		SECURITY NO.		SECURITY NO.		
	TICKER SYMBOL TIF — ISSUES SH OUTSTANDING 1895		TICKER SYMBOL TEY — ISSUES SH OUTSTANDING 140		TICKER SYMBOL TIN — ISSUES SH OUTSTANDING 3678		TICKER SYMBOL TOK — ISSUES SH OUTSTANDING 658		TICKER SYMBOL TPZ — ISSUES SH OUTSTANDING 419		
	BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED	BID	ASKED	
12/1	30	31	18-4	20	15	15-4	20-4	21-4	35-4	36-4	12/1
2	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		2
3	31	32	18	21	14-7	15-3	20	21	34	37	3
4	31	32	18	21	15	15-4	20	21	35	40	4
7	31	32	18	21	15	15-4	20	21	39	40	7
8	30	31	18	21	15-1	15-5	19-4	20-4	37-4	38-4	8
9	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		9
10	31	32	18	21	16-2	16-6	19	20	36-4	37-4	10
11	31	32	18	21	17	17-4	19-4	20-2	36-2	37-2	11
14	33-2	34-2	18	21	17-3	17-7	19-2	20-2	36-4	37-4	14
15	33-2	34-2	18	21	17-2	17-6	19-4	20-2	37	38	15
16	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		16
17	33	34	18	21	17-2	17-6	19-6	20-6	38-4	39-4	17
18	33-2	34	18	21	17-4	17-5	20	21	38	41	18
21	33-2	34			16-6	17-2	20-4	21-4	41	42	21
22	33-2	34			16-7	16-3	20-2	21	23-4	24-4	22
23	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		23
24	33-4	34-2			15-5	16-1	20	21	23	23-4	24
25	33-2	34-2			15-5	16-1	20-2	21-2	23	23-4	25
28	33-4	34-4			16	16-4	20	21	23-2	24	28
29	33	34			15-3	15-7	20	21	24-2	25	29
30	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		30
31	32-6	33-4			15-6	16-2	19-6	20-6	21-6	22-4	31
11/1	32-4	33-4			16	16-4	19	20	22-4	23-4	11/1
4	32-4	33-2			15-5	16-1	19	20	23	23-6	4
5	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		5
6	32-2	33			16	16-4	19-4	20-2	22-4	23-4	6
7	31-6	32-4			15-4	16	19-2	20	22-6	23-4	7
8	31-6	32			15-2	15-6	19-2	20	22-2	23	8
11	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		11
12	31-2	32			16-4	17	19-4	20-2	26-4	27-4	12
13	31-2	32			16-6	17-2	19-2	20	27	28	13
14	31	31-6			17-2	17-6	19-4	20-4	27-6	28-4	14
15	32	32			17-5	18-2	21-2	22-2	27-6	28-6	15
18	30-4	31-4			17-5	18-1	21-4	22-2	27-4	28-6	18
19	30	31			17-5	18-1	21-6	22-6	27-6	28-4	19
20	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		20
21	30-4	31-2			17-4	18	22-4	24	27-6	28-6	21
22	30-2	31			17-4	18	22-6	23-6	27-6	28-6	22
25	30-4	31-4			17-4	18	22-4	23-4	28-2	30	25
26	30-4	31-4			17-4	18	22-6	23-6	28-4	29-2	26
27	30-4	31-4			17-3	17-7	23-2	24-2	28	28-6	27
28	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		28
29	32	33			17-4	18	23-4	24-4	28-2	29	29
12/2	32	33			17-3	17-7	23-2	24-2	28	29	12/2
3	31-6	32-6			17-2	17-6	23-6	24-4	27-2	28	3
4	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		4
5	31-6	32-6	18	21	17-6	18	23-6	24-6	24-6	25-6	5
6	31-6	32-6			17-5	17-9	23-4	24-4	25-6	26-2	6
9	31-6	32-6			17-1	17-5	23-2	24-2	25-6	26-2	9
10	32-2	33-2			17	17-4	23-2	24-2	25-2	26	10
11	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		11
12	31-2	32-2			17-1	17-5	23-6	24-6	25-4	26-4	12
13	32	33			16-6	17-1	24-4	25-4	26-2	27-2	13
16	32-2	33-2			17	17-4	24-2	25-2	26-2	27-2	16
17	32-2	33-2			16-6	17-1	24-4	25-4	26	27	17
18	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		18
19	32	33			16-6	17-2	25-4	26-4	26	27	19
20	32-4	33-4			17	17-5	26-4	30	25-5	25-6	20
23	33	34			16-1	16-5	26-4	28	24-4	25-4	23
24	33-4	34-4			19	19-4	28	29-4	24	25	24
25	HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		HOLIDAY		25
26	33-4	34-4			19-4	20	28-4	30	23-6	24-6	26
27	33-4	34-4	18	21	19-7	20-3	29-4	31	24	25	27
30	33-4	34-4			18-3	18-7	29-4	30-4	23	23-6	30
31	33	34			18-7	19-3	28-4	30	22-6	23-4	31
EARN	$ 1.79				DEFICIT $ .39		$ 3.26		$ .97		EARN
DIV	.125 + 3% STOCK						.100		* 1884 STOCK .025		DIV
RATE		.500						.400		.100	RATE
INTRADAY	NOV - MAY -		NOV - MAY -		NOV - MAY -		NOV - MAY -		NOV - MAY -		INTRADAY
	DEC - JUN -		DEC - JUN -		DEC - JUN -		DEC - JUN -		DEC - JUN -		
	JAN - JUL 265		JAN - JUL -		JAN - JUL -		JAN - JUL -		JAN - JUL -		
	FEB - AUG -		FEB - AUG -		FEB -16788 AUG -		FEB - AUG -		FEB - AUG -		
	MAR - SEP -		MAR - SEP -		MAR -17869 SEP 490886		MAR - SEP -		MAR - SEP -		
	APR -1988 OCT -9744		APR - OCT -		APR - OCT -		APR - OCT -		APR - OCT -		

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Defendant's Exhibit U

EXHIBIT A

TITAN GROUP, INC.

4% CONVERTIBLE INSTALLMENT NOTE
DUE NOVEMBER 1, 1978

SERIES A

Number ___ ___ New York, New York

$..... October 1, 1968

TITAN GROUP, INC., a Delaware corporation (hereinafter called the "Company."), for value received, hereby promises to pay

or order, the principal sum of Thousand Dollars ($) in such coin or currency of the United States of America as at the time of payment (as hereinafter set forth) shall be legal tender for the payment of public and private debts, upon surrender hereof for payment in full at the principal office of the Company, 529 Fifth Avenue, New York, New York, and to pay interest on the unpaid principal hereof from the date hereof at the rate of 4% per annum, in like coin or currency, semi-annually on May 1 and November 1 of each year, until such principal sum shall have become due and payable, and to pay interest at the rate of 7% per annum on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the due date thereof until the obligation of the Company with respect to the payment thereof shall be discharged.

NO TRANSFER OF THIS NOTE SHALL BE VALID OR EFFECTIVE UNTIL THE CONDITIONS SET FORTH HEREIN HAVE BEEN SATISFIED.

Defendant's Exhibit U

This Note is one of a series of Notes of the Company aggregating $ in principal amount, numbered to inclusive.

1. Payment of Principal.

The principal sum of this Note and all interest then accrued and unpaid shall become due and payable as follows:

November 1, 1974, 20% of the original face amount hereof.

November 1, 1975, 20% of the original face amount hereof.

November 1, 1976, 20% of the original face amount hereof.

November 1, 1977, 20% of the original face amount hereof.

November 1, 1978, the balance of the original face amount hereof.

Notwithstanding the foregoing, (a) if the Company shall (i) admit in writing its inability to pay its debts generally as they become due, (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a receiver for itself or for the whole or any substantial part of its property, (v) on a petition in bankruptcy filed against it, be adjudicated a bankrupt, or (vi) file a petition or answer seeking a reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof; or (b) if a court of competent

jurisdiction shall enter an order, judgment or decree appointing, without the consent of the Company, a receiver of the Company, or of the whole or any substantial part of its property, or approving a petition filed against it seeking reorganization or arrangement of the Company under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty days from the date of entry thereof, or (c) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its property and such custody or control shall not be terminated or stayed within sixty days from the date of assumption of such custody or control; or (d) in the event of a default in the payment of any installment of interest or principal hereunder which continues for fifteen (15) days after written notice thereof to the Company, then, at the option of the holder of any Note in the series in which this Note is one, all of the Notes in such series shall immediately become due and payable.

2. Register of Notes.

The Company or its duly appointed agent shall maintain a register or registers in which it shall register

all of the Notes and shall transfer them in accordance with the terms hereof. The Notes shall be transferred only on the register or registers maintained by the Company or its agent and the Company shall be entitled to regard the registered holder as the actual holder of the Note so registered for all purposes until a transfer has been effected by the Company or its agent. The Company or its agent shall not be required to make any transfer unless and until it shall receive the Note to be transferred duly and properly endorsed or signed by the registered holder thereof or by his attorney duly authorized in writing, with signature guaranteed by a bank or brokerage house and unless and until the registered holder is entitled to transfer the same under the provisions hereof.

3. Prepayment.

The Company may not prepay any of the Notes, or any part thereof, prior to November 1, 1971. Thereafter, the Company, at its election, subject to the giving of notice as provided below, may prepay the principal amount of the outstanding Notes, in whole or in part, at the respective amounts set forth below plus interest accrued and unpaid to the date of prepayment.

Defendant's Exhibit U

If Prepaid during the Twelve-Month Period Commencing November 1	Prepayment Price (as a percent of Principal Amount)
1971	105%
1972	104-1/6%
1973	103-1/3%
1974	102-1/2%
1975	101-2/3%
1976	100-5/6%
1977	100%

Notwithstanding the foregoing, the Company shall have the option at any time prior to November 1, 1971, in the event of any merger or consolidation of the Company with or into, or the sale of substantially all of its assets to, any other corporation, to call for prepayment any or all of such Notes at 105% of the face amount plus interest accrued and unpaid to the date of prepayment or to cause without penalty such other corporation or any surviving or resulting corporation to assume the Company's obligations under the said Agreement, in the manner and fashion set forth in the last paragraph of Section 4 below.

In the case of any prepayment of the Notes or any part thereof, notice thereof shall be given not less than thirty nor more than sixty days prior to the date fixed in such notice for such prepayment (hereinafter referred to as the "Prepayment Date"). Such notice shall be sent by registered or certified mail, postage prepaid, to each of the holders of the Notes then outstanding at the most recent address of such holders as reflected in the register or registers of Notes maintained by the Company, and said notice shall be deemed given when deposited in the mail.

Defendant's Exhibit U

In the case of any prepayment of less than the entire unpaid principal amount of all outstanding Notes, the amount to be prepaid shall be applied pro rata to all outstanding Notes according to the respective unpaid principal amounts thereof with the amount of the prepayment applied first to the last payment due on all of the outstanding Notes and thereafter to the payments due under such Notes in inverse order to their due dates.

4. Conversion Privilege.

Any holder of any Note, at his option, at any time after ~~the issuance of the Notes~~ January 1, 1969; and from time to time up to noon, New York time, on the fifth day before the Prepayment Date or the final maturity date (whichever is applicable), may convert such Note or any part thereof held by him into Common Stock of the Company, at the rate and upon the terms hereinafter set forth. Such conversion shall be at the rate of one whole share of Common Stock for each Twenty Dollars ($20.00) of the unpaid principal amount of each Note, subject to adjustment as provided herein. No fractional

shares will be issued in connection with any such conversion, but in lieu of such fractional shares the Company shall make a cash payment therefor equal in amount to the product of the applicable fraction multiplied by the conversion price then in effect.

To convert, the holder of any Note shall deliver written notice of his election to so convert, and shall surrender such Note appropriately endorsed to the Company at its principal office. The date of conversion of such Note shall be deemed to be the date of receipt of such Note by the Company, provided it is accompanied by the required written notice, even if the Company's stock transfer books are at the time closed, and the converting holder shall be deemed to have become, on the date of conversion, the record holder of the shares of Common Stock deliverable upon such conversion.

As soon as reasonably possible after the date of conversion, the Company shall issue and deliver to such converting holder a certificate or certificates for the number of shares of its Common Stock due on such conversion. No adjustment shall be made in the number of shares of Common Stock issuable upon conversion of the Notes on account of interest accrued but not yet due and unpaid to the date of conversion; provided, however, that the amount of any interest theretofore due and unpaid at the date of conversion and a pro rated amount of interest from the last interest date to the date of conversion shall be paid by the Company in cash upon

conversion and shall not be convertible into Common Stock. The issuance of Common Stock certificates on conversion shall be made without charge to the holder of the converted Note for any issuance or transfer tax in respect of such issuance.

The Company shall not, however, be required to pay any tax which may be payable in respect to any transfer involved in the issue and delivery of shares of Common Stock in any name other than that of the holder of the converted Note, and the Company shall not be required to issue or deliver any such Common Stock certificate unless and until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

In the event that the Company shall at any time change the outstanding shares of Common Stock issuable upon conversion of the Notes by way of stock dividend, stock split, reverse stock split or similar reclassification (all such changes are hereinafter referred to as "Reclassifications") of the capital stock of the Company, the conversion price of the Common Stock as defined above shall be proportionately decreased or increased. Any such adjustment shall become effec-

tive at the close of business on the date that any such Reclassification shall become effective. Notice of any such adjustment shall be mailed, by first class mail, by the Company to the holders of the Notes at the most current address reflected in the register or registers of Notes maintained by the Company.

In the event that after the date hereof the Company shall merge or consolidate into another corporation, or shall sell, transfer or otherwise dispose of all or substantially all of its property, assets or business to another corporation, and pursuant to the terms of such merger, consolidation or disposition of assets, shares of Capital Stock of the successor or acquiring corporation shall be received by or distributed to the holders of Common Stock of the Company, and in the event and to the extent that the Company shall not elect to prepay the Notes or any portion of them pursuant to Paragraph 3 above, the successor or acquiring corporation shall execute an agreement supplemental hereto assuming all of the Company's obligations hereunder and providing that the Notes shall thereafter be convertible into shares of Capital Stock of the successor or acquiring corporation in the same manner as if such Notes had been converted into Common Stock of the Company immediately prior to such event.

The Company covenants and agrees that during the period during which the Notes shall be convertible, the Company will at all times have authorized and reserved for the

purpose of issue upon exercise of the conversion privilege a sufficient number of shares of its Common Stock.

5. Transfer Without Registration.

No holder of any Note or Common Stock issuable upon conversion of any Note shall transfer such Note or Common Stock issuable upon conversion thereof (hereinafter referred to as "Note Stock") unless each of the following conditions has been satisfied:

(a) The Company shall have received written notice of the proposed transfer, setting forth the circumstances and details thereof;

(b) The Company shall have received a written opinion from a law firm satisfactory to the Company specifying the nature and circumstances of the proposed transfer and indicating that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder; and

(c) The Company shall have received a written opinion from its counsel to the effect that the proposed transfer will not be in violation of any of the provisions of the Securities Act of 1933 and the Rules and Regulations promulgated thereunder.

6. Subordination Provisions.

The holder hereof agrees that the payment of the principal, premium, if any, and interest on this Note is expressly subordinated to the prior payment of any and all Senior

Debt of the Company or any of its subsidiaries. "Senior Debt" for this purpose means the principal of (and premium, if any) and interest on the following, whether outstanding at the date hereof or hereafter incurred or created: (a) indebtedness of the Company or any of its subsidiaries for money borrowed from financial institutions (which term shall include without limitation banks, trust companies, insurance companies and other financing institutions and charitable trusts, pension trusts and other investing organizations), evidenced by notes or other written obligations, (b) any guarantee or guarantees of the Company of any such borrowing described in clause (a) above by any subsidiary of the Company, (c) indebtedness of the Company or any of its subsidiaries evidenced by notes, debentures (other than this Note and those others of like tenor issued concurrently herewith), bonds or other securities issued for money under the provisions of any indenture or similar instrument, and (d) deferrals, renewals, extensions and refunding of indebtedness of the kinds described in the preceding clauses (a), (b) and (c). For purposes of this Note, the term "subsidiary" means any corporation, at least 80% of the issued and outstanding voting shares of stock of which are owned by the Company or by any subsidiary of the Company.

(a) Upon any payment or distribution of any kind or character, whether in cash, property or securities, to creditors upon any dissolution, winding up, liquidation, reorganization, recapitalization or readjustment of the Company or

its securities (whether voluntary, involuntary, or in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors, or any other arrangement or marshalling of the assets and liabilities of the Company or otherwise):

(1) all Senior Debt shall first be paid in full or provision made for such payment in money or money's worth, before any payment or distribution is made on account of theprincipal of and premium, if any, and interest on this Note; and

(2) any payment or distribution of any kind or character, whether in cash, property or securities to which the holder of this Note would be entitled except for the provisions of this Paragraph 6, shall be paid by the liquidating trustee or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or other trustee or agent, directly to the holder or holders of the Senior Debt or their representative or representatives ratably according to the aggregate amounts remaining unpaid on account of the principal of, premium, if any, and interest on, the Senior Debt held or represented by each, to the extent necessary to make payment in full, in money or money's worth, of all Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution, or provision therefor,

to the holders of such Senior Debt.

(b) No payment of the principal of or premium, if any, or interest on this Note shall be made by the Company or received or accepted by the holder hereof, and no redemption, retirement, purchase or other acquisition of this Note shall be made by the Company, or any amount in respect thereof received or accepted by the holder of this Note, if, at the time thereof or immediately after giving effect thereto, there exists (and has not been waived) any default in the payment of principal of, or premium, if any, or interest on, any Senior Debt or any other default under any Senior Debt or under any agreement pursuant to which any Senior Debt is issued, if the effect of such other default is to cause or permit the holder or holders of such Senior Debt to cause such Senior Debt to become due prior to its stated maturity.

(c) In the event that, notwithstanding the provisions of this Paragraph 6, any payment, distribution or amount of any kind or character, whether in cash, property or securities, shall be received by the holder of this Note contrary to the provisions of subparagraph (a) or (b) of this Paragraph 6, then such payment, distribution or amount shall be held in trust by such holder for, and immediately paid over to, the holder or holders of Senior Debt remaining unpaid or unprovided for, or their representative or representatives, for application to the payment of such Senior Debt ratably according to the aggregate amounts remaining unpaid on account of

the principal of, premium, if any, and interest on such Senior Debt until all such Senior Debt shall have been paid in full in money or money's worth, after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Debt.

(d) Subject to the payment and satisfaction in full of all Senior Debt, the holder of this Note shall be subrogated to the rights of the holders of Senior Debt to receive payments or distributions of assets of the Company thereafter payable or distributable to the holders of Senior Debt, to the extent of the payments and distributions paid over to or for the benefit of the holders of Senior Debt pursuant to the provisions of this Paragraph 6, until the principal of, premium, if any, and interest on this Note shall be paid in full. Nothing contained in this Paragraph 6 is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Debt, and the holder of this Note, the obligation of the Company, which is absolute and unconditional, to pay to the holder of this Note the principal of, premium, if any, and interest on this Note as and when the same shall become due and payable in accordance with its terms, or to affect the relative rights of the holder of this Note and creditors of the Company other than the holders of Senior Debt.

(e) The holder hereof agrees, from time to time, upon request, to make, execute and deliver, any endorsements, assignments, proofs of claim, consents, agreements or instruments which the holder of any Senior Debt may deem necessary or desirable in order to effectuate the purposes of this Paragraph 6. The holder hereof agrees not to surrender or

release any claims under or evidenced by this Note until all Senior Debt has been paid in full, except to the extent of payment of principal, premium, if any, or interest paid by the Company hereon which are not prohibited by the other provisions of this Paragraph 6. The foregoing shall not affect the right of the holder hereof to transfer or assign this Note to any person other than the Company, such person to continue to be bound by the provisions of this Paragraph 6, provided that said transfer or assignment shall be pursuant to the provisions of Paragraph 5 hereof.

(f) In the event of any proceedings for the dissolution, winding up, liquidation, reorganization, recapitalization or readjustment of the Company or its securities (whether voluntary, involuntary, or in bankruptcy, insolvency or receivership or upon an assignment for the benefit of creditors or any other arrangement or marshalling of the assets and liabilities of the Company or otherwise), then, at the option of any holder of Senior Debt, this Note shall immediately become due and payable, without notice or demand, and any holder of Senior Debt shall be and is hereby authorized, as attorney in fact for the holder of this Note, to prove the indebtedness evidenced by this Note on behalf of the holder thereof. No holder of Senior Debt shall be under any duty to take any action in connection with any claims of the holder of this Note and shall not be responsible in any respect in connection therewith for action it may take, or refrain from taking, or otherwise, except for wilful malfeasance.

(g) No right of any present or future holder of any Senior Debt to enforce subordination as herein provided

shall, at any time, in any way, be prejudiced or impaired by any act or failure to act on the part of the Company, or by any act or failure to act by any such holder, or by any noncompliance by the Company with the terms and provisions of this Note, regardless of any knowledge thereof any such holder may have or may be otherwise charged with, or by the release by any holder of Senior Debt of any security, endorsers, sureties or guarantors with respect to any Senior Debt or by the release by any holder of Senior Debt from the terms of any subordination instrument of any claims subordinated to this payment thereof.

(h) All the other provisions of this Note shall be subject to the provisions of this Paragraph 6, notwithstanding anything therein contained to the contrary.

7. Legend.

It is understood and agreed by the parties hereto and all persons who shall from time to time be holders of any of the Notes or Note Stock, that the Note Stock shall bear a legend substantially as follows:

"The transfer of the shares represented by this certificate is subject to the conditions specified in the Agreement dated December 2, 1968, providing for the issuance of Notes pursuant to the conversion of which such shares were issued and sold by Titan Group, Inc. (the "Company") and no transfer of such shares shall be valid or effective until such conditions have been fulfilled. A copy of such

Agreement is on file and may be inspected at the principal office of the Company."

8. Attorneys' Fees.

In the event that legal action becomes necessary to enforce the terms and conditions of this Note, the losing party in such legal action shall pay all the incidental costs and reasonable attorneys' fees incurred by the prevailing party.

TITAN GROUP, INC.

By_____
President

By_____
Secretary

Due and timely service of ONE copies
of the within APPENDIX is hereby
admitted this 8TH day of AUGUST 1974

Attorneys for APPELLEE